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**AGREEMENT BETWEEN**  
**THE CITY OF FAIRLAWN**  
**AND**  
**FAIRLAWN PROFESSIONAL FIRE FIGHTERS,**  
**IAFF LOCAL 4164**  
**JANUARY 1, 2014 - DECEMBER 31, 2016**

Doc: 14-002A

TABLE OF CONTENTS

<u>Article</u>	<u>Title</u>	<u>Page</u>
1	Preamble	1
2	Recognition	1
3	Management Rights	1-2
4	Dues Deduction	2-3
5	Fair Share	3-4
6	No Strike	5
7	Non-Discrimination	5
8	Gender	6
9	Waiver	6
10	Conformity to Law	6
11	Grievance Procedure	7-9
12	Arbitration	9-10
13	Conducting Union Activities	11
14	Personnel Files	12
15	Discipline	13
16	Press Release	13
17	Employees' Bill of Rights	14-15
18	Legal Defense of Employees	15
19	Probationary Period	16
20	Seniority	17-18

Approved by Fairlawn City Council on February 3, 2014 by Ordinance 2014-006

21	Layoff and Recall	18
22	Hours of Work	19
23	Twenty-Four Hour Shifts	20
24	Duration and Posting of Scheduling	20
25	Shift Exchange	21
26	Assignment During Disability (Light Duty)	21-22
27	Basic Rate of Pay	22
28	Overtime Pay	22
29	Compensatory Time	23
30	Holidays	24-25
31	Vacation	26-27
32	Sick Leave	28-30
33	Job-Related Medical Leave of Absence	30-31
34	Funeral Leave	31
35	Jury Duty Leave	32
36	Leave Without Pay	32
37	Wages	33
38	Training Time	34
39	Training Expense Recapture	35
40	Tuition Reimbursement	35
41	Seniority Incentive	36
42	Pension Pick-Up Plan	36

Approved by Fairlawn City Council on February 3, 2014 by Ordinance 2014-006

43	Uniform Allowance	36
44	Insurances	37-41
45	Compensation Upon Resignation, Dismissal, Retirement or Layoff	41
46	Drug Testing	42-44
47	Secondary Employment	44
48	Off-Duty Calls	45
49	Fitness for Duty	45-46
50	Suspension in Case of Emergency	47
51	Labor-Management Committee	47
52	Duration of Agreement	48

**ARTICLE 1**  
**PREAMBLE**

Section 1.1. This Agreement is entered into by and between the City of Fairlawn, hereinafter referred to as “City” or “Employer” and the Fairlawn Professional Fire Fighters, IAFF Local #4164 (hereinafter referred to as “Bargaining Unit” or “Union”). It is the purpose of this Agreement to achieve and maintain harmonious relations between the Employer and the Bargaining Unit, to provide the equitable and peaceful adjustment of differences which may arise, and to establish proper standards of wages, hours, and other conditions of employment.

**ARTICLE 2**  
**RECOGNITION**

Section 2.1. The City hereby recognizes IAFF Local 4164 as the sole and exclusive bargaining agent for the purpose of collective bargaining on any and all matters related to wages, hours and working conditions of all Full-Time Fire/Medics and Full-Time Fire/Medics holding the rank of Lieutenant employed by the Fire Department of the City of Fairlawn.

Section 2.2. Positions excluded from the above-described bargaining unit shall be all part-time and intermittent Firefighters, all full-time Fire Captains, the Fire Chief, and all other City employees.

**ARTICLE 3**  
**MANAGEMENT RIGHTS**

Section 3.1. Management Rights. Any and all rights concerned with the management of the Fairlawn Fire Department are the exclusive and sole responsibility of the City. It is further recognized that the City has the right to:

- A. Determine matters of inherent managerial policy which include, but are not limited to areas of discretion or policy such as the functions and programs of the City, standards of services, its overall budget, utilization of technology, and organizational structure;
- B. Direct, supervise, evaluate, or hire employees;
- C. Maintain and improve the efficiency and effectiveness of governmental operations;

- D. Determine the overall methods, process, means, or personnel by which governmental operations are to be conducted;
- E. Suspend, discipline, demote, or discharge for just cause or lay off, transfer, assign, schedule, promote, or retain employees, limited only by the other Articles in the Contract;
- F. Determine the adequacy of work force;
- G. Determine the overall mission of the City as a unit of the government;
- H. Effectively manage the work force;
- I. Take actions to carry out the mission of the City as a government unit.

#### **ARTICLE 4** **DUES DEDUCTION**

Section 4.1. Dues Deduction. As bargaining agent, the Union is required to represent all employees in the Fire Department who are members of the bargaining unit fairly and equitably, regardless of their membership, or non-membership, in the IAFF.

Section 4.2. Requirements for Deduction. The Employer agrees to deduct regular IAFF membership dues once each month from the pay of any employee who has completed sixty (60) days of service in the bargaining unit eligible for such deduction upon receiving written authorization signed individually and voluntarily by the employee. The agreed-to signed payroll deduction form must be presented to the Employer by the employee. Upon receipt of the proper authorization, the Employer will deduct IAFF dues from the first payroll check for each calendar month in which dues are normally deducted. Such dues will be remitted to the IAFF within thirty (30) days from the date of making said deduction.

Section 4.3. Indemnification. The parties agree that the Employer assumes no obligation, financial or otherwise, arising out of the provisions of this Article regarding the deduction of IAFF dues or fair share fees. The IAFF hereby agrees that it will indemnify and hold the Employer harmless from any claims, actions, or proceedings by any employee arising from deductions made by the Employer pursuant to this Article. Once the funds are remitted to the IAFF their disposition thereafter shall be the sole and exclusive obligation and responsibility of the IAFF.

Section 4.4. Termination of Deductions. The Employer shall be relieved from making such individual "check-off" deductions upon an employee's: (a) termination of employment; (b) transfer to a job other than one covered by the bargaining unit; (c) layoff from work; or (d) written revocation of the check-off authorization in accordance with the terms of this Agreement.

Section 4.5. Union Refund. In the event a refund is due any employee for any sums deducted from wages and paid to the Union, it shall be the responsibility of such employee to obtain appropriate refund from the Union.

Section 4.6. Insufficient Wages for Deduction. The Employer shall not be obligated to make dues deductions from any employee who, during any dues months involved, shall have failed to receive sufficient wages to make all legally required deductions in addition to the deduction of dues.

Section 4.7. Deduction Error. The City shall be liable for the remittance or payment of any sum other than those constituting actual deductions made if for any reason it fails to make a deduction for an employee as above provided, and it shall make the deduction from the employee's next pay in which such deduction is normally deducted after the error has been called to the attention by the Employer or Union.

Section 4.8. Notification. The IAFF shall notify the Employer in writing of any increase in the current dues or fair share fees being deducted. Such increase in dues or fair share fees shall be deducted in the second pay period following notification of any increase in dues.

## **ARTICLE 5** **FAIR SHARE**

Section 5.1. Fair Share Contribution. The Union shall establish a fair share fee not to exceed, on a monthly basis, the monthly Union dues paid by members of the Union. This fee shall represent the probationary employee's contribution for direct and indirect benefits by the Union and bargaining unit.

After completion of the probationary period, a member of the bargaining unit covered by this Agreement, as a condition of continued employment, must either become a member of the Union or pay to the Union a "Fair Share Fee" not to exceed, on a monthly basis, the monthly Union dues paid by members of the Union.

Section 5.2. Payroll Deduction. Fair share fees shall be paid by automatic payroll deduction. Fair share fee deductions do not require prior authorization from the affected employees.

Fair share fee deductions and transmittals shall be made in the same manner provided by this Agreement for regular dues deductions.

Fair share fees shall equal regular IAFF Local 4164 dues reduced, in advance, by the payer's proportionate share of all expenses which do not arise, directly, out of the IAFF Local 4164's duty of fair representation to the employees governed by this Agreement.

Any employee required to pay a fair share fee under this Article may challenge the amount of that fee as set forth in the IAFF Local 4164's challenge and rebate procedure. The Employer's obligation to deduct fair share fees is contingent upon:

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- A. IAFF Local 4164's fulfillment, on behalf of each non-member, bargaining unit employee, of each obligation established in the IAFF Local 4164's challenge and rebate procedure.
- B. Maintenance of a constitutionally adequate challenge and rebate procedure.
- C. IAFF Local 4164 may amend its challenge and rebate procedure by providing the employee a written copy of the procedure as amended. Changes in the amounts to be deducted shall become effective on the thirtieth (30<sup>th</sup>) calendar day after their actual receipt by the Employer.

The Employer's financial liability under this Article is limited to deduction and transmittal of fair share fees. IAFF Local 4164 shall indemnify, save and hold the Employer harmless from any claim, actions or proceedings brought by a person or entity as a result of deductions made by the Employer pursuant to this Article.

Section 5.3. Political Contribution. If a unit member does not wish to contribute that portion of his "Fair Share Fee" which is used in support of partisan politics or ideological causes which are not germane to the Union's role in collective bargaining with employer entities, he may seek a rebate of this portion of his "Fair Share Fee" payment. Once such a rebate is requested and granted per the challenge procedure, it shall be made monthly until the unit member withdraws his request for this rebate.

Section 5.4. Religious Contribution. Any unit member who also is a member of, and adheres to established and traditional tenets and teachings of a bona fide religion or religious body which has historically held conscientious objections to joining or financially supporting an employee organization, and which is exempt from taxation under the provisions of the Internal Revenue Code, shall not be required to join or support financially any employee organization as a condition of employment. The unit member shall submit proper proof of religious convictions to the State Employment Relations Board, and if the Board shall declare the employee exempt from becoming a member of or financially supporting an employee organization, the employee shall be required, in lieu of a "Fair Share Fee" to contribute a like amount to a non-religious charitable fund exempt from taxation under Section 501(c)(3) of the Internal Revenue Code mutually agreed upon by the employee and a representative of the employees organization to which the employee would otherwise be required to pay a "Fair Share Fee." The employee shall furnish to the employee organization written receipts evidencing such payment, and failure to make such payment or furnish such receipt shall subject the employee to the same sanctions as would non-payment of dues under the applicable collective bargaining agreement.

This Section shall not be construed as a provision requiring any public employee to become a member of an employee organization as a condition of securing or retaining employment.

**ARTICLE 6**  
**NO STRIKE**

Section 6.1. No Strike. The Employer and the Union realize that the grievance procedure provided herein is an adequate means to provide for the orderly resolution of grievances. The parties, therefore, agree to the following:

- A. The Union agrees that it, its officers, agents, and representatives, will not authorize, instigate, cause, aid, condone or participate in any strike, sympathy strike, work stoppage, or any other concerted activities which interrupt the operations or services of the Employer by its members during the life of this Agreement.
  
- B. In all cases of strike, sympathy strike, slowdown, walkout, or any unauthorized cessation of work in violation of this Agreement, the Union shall undertake every reasonable means to induce any such bargaining unit members to return to their jobs, during any such period of unauthorized stoppage of work mentioned above. It is specifically understood and agreed that the Employer during such unauthorized work stoppage or job action shall have the whole and complete right to discipline.

Section 6.2. Lockout. The Employer agrees that it, its officers, agents, and representatives, individually or collectively, will not authorize, instigate, cause, aid or condone any lockout of members of the Union.

**ARTICLE 7**  
**NON-DISCRIMINATION**

Section 7.1. The parties to this Agreement agree not to discriminate against any employee on the basis of race, creed, sex, national origin, or disability.

Section 7.2. The Employer and the Union agree not to discriminate against any bargaining unit employee on the basis of Union membership or non-membership or because the employee engages in or refrains from engaging in lawful Union activity. However, no dispute or controversy arising under this Article shall be grievable pursuant to the grievance procedure in this Agreement to the extent any applicable law or regulation provides an avenue of relief available to the affected employee.

**ARTICLE 8**  
**GENDER**

Section 8.1. All references to employees in this Agreement designate both sexes regardless of which sex was stated.

**ARTICLE 9**  
**WAIVER**

Section 9.1. Waiver. The parties hereto agree that during the negotiations which resulted in this Agreement, each had the unlimited right to make demands and proposals on any subject matter not removed by law from the area of collective bargaining, that they have discussed fully and totally all issues between the parties, that the entire understandings and agreement arrived at by the parties after the exercise of these rights are set forth in this Agreement, and they hereby agree and waive any bargaining and rights of bargaining on any other issues, topics or subjects not included within the Agreement, and further, the parties waive any and all rights of bargaining on all other subjects not included within the collective bargaining agreement. The provisions of this Agreement constitute the entire agreement between the parties.

**ARTICLE 10**  
**CONFORMITY TO LAW**

Section 10.1. Conformity to Law. This Agreement supersedes and replaces all applicable laws which it has the authority to supersede and replace.

Section 10.2. Validity. If the enactment of federal or state legislation, or a determination by a court of final and competent jurisdiction (whether in a proceeding between the parties or in one not between the parties) renders any portion of this Agreement invalid or unenforceable, such legislation or decision shall not affect the validity of the surviving portion of this Agreement, which shall remain in full force and effect as if such invalid portion thereof had not been included herein. In such event, at the written request of either party, the parties shall meet within thirty (30) days to negotiate the impact.

**ARTICLE 11**  
**GRIEVANCE PROCEDURE**

Section 11.1. Grievance Procedure. The term "grievance" shall mean an allegation by a bargaining unit employee that there has been a violation or misinterpretation of the express terms of this Agreement. It is not intended that the grievance procedure be used to effect changes in the Articles of this Agreement nor those matters not covered by this Agreement.

Section 11.2. Process. All grievances must be processed at the proper STEP in order to be considered at subsequent STEPs. Any employee may withdraw a grievance at any point by submitting in writing a statement to that effect, or by permitting the time requirements at any STEP to lapse. Any grievance which is not processed by the employee within the time limits provided shall be considered resolved based upon management's last answer.

Any grievance not answered by management within the stipulated time limits is deemed denied and may be advanced by the employee to the next STEP in the grievance procedure. All time limits on grievances may be extended upon mutual consent of the parties.

For purposes of Articles 11 and 12 of this Agreement, the phrase "calendar day" shall mean all days Sunday through Saturday. When the last day to file a grievance, process a grievance to the next Step, respond to a grievance, or hold a grievance meeting falls on a Saturday, Sunday or legal holiday recognized by this Agreement, the time limits shall automatically be extended to the next calendar day that is not a Saturday, Sunday or legal holiday. The time requirements specified in Articles 11 and 12 are the same for all bargaining unit employees regardless of their work schedules.

Section 11.3. Procedure. It is the mutual desire of the Employer and the Union to provide for prompt adjustment of grievances, with a minimum amount of interruption of the work schedule. Every responsible effort shall be made by the Employer and the Union to effect the resolution of grievances at the earliest STEP possible. No settlement of any grievance shall conflict with the terms of this Agreement. In furtherance of this objective, the following procedure shall be followed:

STEP 1: The grievance must be presented in writing to the designated Supervisor within seven (7) calendar days from the date the alleged incident occurred or from the date the grievant should have known the incident occurred, but in no case later than twenty (20) calendar days following the date of such incident. The grievance shall be presented on the form attached to this Agreement as Appendix A. The grievant shall provide a copy of the grievance form to the local Union grievance representative on or before the date the grievance is presented to the designated Supervisor. Within seven (7) calendar days from the date the employee first presents his written grievance, the Supervisor will deliver his written response.

- STEP 2: If the grievance is not resolved, the employee may pursue the matter by presenting the grievance and the Supervisor's response in writing to the Chief, or his designee, within seven (7) calendar days of the reply received in STEP 1. The Chief, or his designee, shall, if it is deemed necessary, meet with those concerned and attempt to resolve the matter, and shall respond in writing within fourteen (14) calendar days following timely receipt of the grievance at this STEP.
- STEP 3: If the grievance is not resolved, the employee may pursue the matter by presenting the written grievance and all written responses to the Safety Director within seven (7) calendar days of the reply received in STEP 2. The Safety Director shall, if it is deemed necessary, meet with those concerned and attempt to resolve the matter, and shall respond in writing within fourteen (14) calendar days following timely receipt of the grievance at this STEP. If the Mayor is also serving as the Safety Director, this STEP 3 shall be omitted and the grievance may be advanced from STEP 2 to STEP 4.
- STEP 4: If the grievance is not resolved, the employee may pursue the matter by presenting the written responses to the Mayor within seven (7) calendar days of the reply received in STEP 3. The Mayor shall meet with those concerned and attempt to resolve the matter, and shall respond in writing within twenty-one (21) calendar days following timely receipt of the grievance at this STEP.
- STEP 5: Arbitration: If the grievance is not satisfactorily settled at STEP 4, the Union may file a Notice of Arbitration. A Notice of Arbitration must be mailed, certified mail, return receipt requested, to the Mayor within thirty (30) calendar days following the issuance of the Mayor's written decision in STEP 4. In the event the grievance is not mailed, certified mail, within the time limits prescribed, the grievance shall be considered resolved based upon the STEP 4 reply.

Section 11.4. Grievance Information. All grievances must contain the following information to be considered, and must be filed using the grievance form mutually agreed upon by the parties:

- A. Grievied employee's name and signature;
- B. Grievied employee's classification;
- C. Date grievance was filed in writing;
- D. Date and time grievance occurred;

- E. The location where the grievance occurred;
- F. A description of the incident(s) giving rise to the grievance;
- G. Specific Articles and Sections of the Agreement violated;
- H. Desired remedy to resolve the grievance.

Section 11.5. Self Representation. When an employee covered by this Agreement chooses to represent himself in the presentation of a grievance, no adjustment of the grievance will be inconsistent with the terms of this Agreement. Prior to the adjustment of any such grievance, the appropriate employee grievance representative will be notified of his right to be present at the adjustment.

Section 11.6. Who May File. A grievance may be brought by any employee covered by this Agreement. Where a group of bargaining unit employees desire to file a grievance involving an incident affecting several employees in the same manner, one employee shall be selected by the group to process the grievance. Each employee who desires to be included in such grievance shall be required to sign the grievance.

## **ARTICLE 12** **ARBITRATION**

Section 12.1. Selection of Arbitrator. The Union shall request a list of fifteen (15) arbitrators, from the northeast Ohio region, from the American Arbitration Association. The parties shall select an arbitrator in accordance with the American Arbitration Association's Labor Arbitration Rules; however, the parties may select an arbitrator by mutual agreement.

Section 12.2. Authority of Arbitrator. The arbitrator shall give a fair and impartial hearing on the testimony and evidence from both parties, unless the parties mutually agree to submit their dispute on written stipulations. The arbitrator shall not have authority to add to, subtract from, modify, change or alter any provisions of this Agreement. The arbitrator shall expressly confine himself to the precise issue(s) submitted for arbitration and shall, absent mutual agreement of the parties, have no authority to determine any other issues not so submitted to him. The arbitrator shall not issue observations or declarations of opinion which are not directly essential in reaching a decision on the issue(s) in question. The arbitrator shall not establish any new or different wage rates not negotiated as part of this Agreement. In disciplinary cases, the arbitrator shall have the authority to affirm, disaffirm, or modify said discipline.

The question of arbitrability of a grievance may be raised by either party before the arbitrator hears the merits of the grievance.

If the question of arbitrability is raised, the arbitrator must rule on this issue before hearing evidence or argument on the merits of the grievance.

The decision of the arbitrator shall be final and binding upon the Union, their grievant, and the City.

Section 12.3. Costs. The costs of any proof produced at the direction of the arbitrator, administrative fees charged by the American Arbitration Association, and the rent, if any, for the hearing room shall be shared equally between both parties. Each party shall pay the entire cost for any representative engaged by that party. The expenses of any non-employee witnesses shall be borne, if at all by the party calling them. The fees of the court reporter shall be paid by the party asking for one; such fees shall be split equally if both parties desire a reporter or request a copy of any transcript. All costs directly related to the service of the arbitrator shall be borne by the losing party. If the arbitrator issues a split decision, the parties shall equally share the costs directly related to the service of the arbitrator.

Section 12.4. Arbitrator's Award. The arbitrator's decision will be in writing and shall be mailed to the Union and the City within thirty (30) days from the date the hearing record is closed.

Section 12.5. Rules. The hearing or hearings shall be conducted pursuant to the Labor Arbitration Rules of the American Arbitration Association.

Section 12.6. Witnesses. An employee requested to appear at the arbitration hearing by either party shall attend without the necessity of subpoena and shall be compensated at his or her regular hourly rate for all scheduled hours during which his or her attendance is required by either party. Any request made by either party for the attendance of witnesses shall be made in good faith, and employees shall return to work at the earliest time possible following the conclusion of their testimony or other involvement. At no time shall more than two (2) employees be in attendance.

**ARTICLE 13**  
**CONDUCTING UNION ACTIVITIES**

Section 13.1. The Union shall at all times keep the Mayor and the Chief advised in writing of the name and department of its officers and members of all committees authorized to act on behalf of the Union. Any changes in Union personnel are to be immediately forwarded to the above-mentioned individuals in writing.

Section 13.2. Union members who are working during a Union meeting may attend such meeting, but must be available to respond to any dispatched call without delay. Meetings must be conducted in the City of Fairlawn to qualify the member for attendance.

Section 13.3. Three (3) members of the bargaining unit shall be entitled to attend all meetings between the City and the Union for the purpose of contract negotiations. When such meetings take place at a time when the members are scheduled to work, the three (3) members shall be granted leave with pay for the period of time such negotiations are in session and one (1) hour prior to the starting time of a negotiating session. The members will only receive payment for the hours they would have worked on their regular schedule. Such attendance shall not interfere with the effective operations of the Department.

Section 13.4. The Union will notify the Chief of the time and date of the Union monthly meetings, and such meetings will be within the City of Fairlawn. All bargaining unit members on duty may attend but must respond to any calls given at the time of the meetings.

Section 13.5. The Union president shall receive three (3) days each year of the Agreement and a designated delegate appointed by the president shall receive three (3) days per year of this Agreement. Such time shall be for the use of the president and his designate to attend the conferences or seminars for the Union. Notification to the Chief shall be made thirty (30) days prior to the dates requested. Such requests will be approved provided they do not result in the staffing level dropping below Departmental staffing requirements. Such time off shall not be cancelled by the Employer without a fourteen (14) calendar day notice. Vacation, holidays or compensatory time may be used for the purpose of such leave, provided that the use of all such time for the purposes set forth herein shall be charged hour for hour.

Section 13.6. The Union president shall be permitted to attend any disciplinary hearings.

Section 13.7. The representative of the Union may attend any disciplinary hearings should such presence be required.

**ARTICLE 14**  
**PERSONNEL FILES**

Section 14.1. Personnel Files. The City of Fairlawn Civil Service Commission shall maintain personnel files of the full-time employees of the Division of Fire and Rescue Emergency Services. Any employee shall be permitted to review his or her personnel file.

Should an employee upon review of his or her file, read/observe material of an adverse nature, said employee may provide a written and signed comment in response to said adverse material. Such comment shall remain in the Employer's file so long as the adverse material remains.

When an employee is charged with or is under investigation of violations of departmental rules and regulations, reasonable efforts consistent with applicable law, shall be made to withhold publication of the employee's name and extent of the disciplinary action taken or contemplated until such time as a final departmental ruling has been made and served on the employee.

Section 14.2. Access. Employees shall have access to their individual personnel files for review during normal business hours. Any employee wishing to examine his personnel file shall make a prior request to view this material at the convenience of the Employer. The Employer shall not be required to pay an employee or to lose that employee's service as a result of this activity, unless advance approval to examine the files during regular working hours has been obtained.

Section 14.3. Copies. Upon request, an employee shall receive copies of any material placed in his personnel file.

**ARTICLE 15**  
**DISCIPLINE**

Section 15.1. No form of disciplinary action will be taken against any non-probationary employee except for just cause. This just cause standard does not apply to newly hired probationary employees who may be terminated any time during their probationary period without recourse.

Section 15.2. Procedure.

- A. The Employer will apply discipline in a corrective progressive and uniform manner.
- B. Any discipline imposed will be based upon the nature of the violations, and the employee's record of previous disciplinary actions from his personnel file.
- C. Except in cases where the facts require the Employer to act immediately, the Employer agrees not to reduce, suspend, or discharge any employee without first arranging for a pre-disciplinary conference. The pre-disciplinary conference shall be conducted within thirty (30) calendar days of the date when a Captain or the Chief becomes aware of the alleged allegation. When the Employer determines that the facts require immediate action, the employee shall be placed on administrative leave prior to a pre-disciplinary conference. The employee will be relieved from the active performance of regular duties without loss of pay until the pre-disciplinary conference is held regarding these allegations.
- D. Records of oral warnings and written reprimands which are more than two (2) years old shall not be considered when determining the appropriate discipline to be imposed. Such records shall be maintained in a sealed envelope in the personnel file.

**ARTICLE 16**  
**PRESS RELEASE**

Section 16.1. Press Release. When an employee is charged with or under investigation for violations of the Fairlawn Fire Department Rules and Regulations or applicable City Ordinances, or employee manual, reasonable efforts consistent with applicable law shall be made to withhold the name of such employee and the extent of disciplinary action taken until such time as the employee has been served with charges or exonerated.

**ARTICLE 17**  
**EMPLOYEES' BILL OF RIGHTS**

Section 17.1. Employees' Rights. When a full-time employee of the Division of Fire and Emergency Rescue unit is subject to formal interview in regard to a matter directly related to immediate disciplinary action or apparent future disciplinary action such as suspension, demotion or dismissal the interview shall be conducted under the following conditions.

Interviews shall be conducted at a reasonable hour when the employee is on duty, unless the seriousness of the investigation is of such a degree that immediate action is required.

Such interview shall take place at the Fire Department of the City of Fairlawn.

The employee, under interview, shall be informed of the person in charge of the interview, and all persons present during the interview. All questions directed to the employee under interview shall be asked by and through one interrogator, unless waived by the employee. The employee under interview shall be informed of the nature of the investigation prior to any interview.

Interview sessions shall be for a reasonable period and shall be timed to allow for such personal necessities and rest periods as are reasonable necessary.

At the request of the employee under interview, he shall have the right to be represented by a designated representative, the identity of whom shall be disclosed to the Chief prior to the start of such interview. Such representative may be, at the employee's sole choice and option, either: (a) a Union representative, (b) an attorney, or © another bargaining unit member. Such representative shall be present at times during the interview, unless waived by the employee. The interview shall be suspended for a reasonable time until representation can be obtained.

The employee under interview shall not be threatened during any interview, but if applicable, shall be advised that he may be temporarily suspended, or transferred until completion of the investigation.

If the employee while being interviewed becomes a suspect to a criminal action and/or such interview becomes an interrogation, as a result of the interview, he shall be completely informed of his constitutional rights.

A complete record, either written, taped or transcribed, shall be kept of the complete interview of the employee, including all recess periods. A copy of the record shall be available to the employee or his designated representative upon request.

The employee shall receive a copy of the final Departmental or Administrative decision as to the investigation.

This Article provides for the protection of the employees regarding job-related incidents that require interviews stemming from an ongoing investigation.

Any employee who has been accused of misconduct, or a violation of the departmental rules and regulations, and such accusations are made by a citizen, which requires an investigation by the department, shall be provided a written and signed statement by the party or parties who have made such accusations. A copy of this report shall be made available to the employee upon any interview.

## **ARTICLE 18**

### **LEGAL DEFENSE OF EMPLOYEES**

Section 18.1. The Employer agrees to provide the legal defense of any lawsuit against any employee alleged to have arisen out of any act or failure to act within the scope of the regular official duties of such employee, provided that such act or failure to act was not malicious, motivated for private gain and did not constitute willful misfeasance, malfeasance or nonfeasance.

**ARTICLE 19**  
**PROBATIONARY PERIOD**

Section 19.1. Firefighter/Medic - Basic Requirements. A new bargaining unit employee shall be on probation for a period of one (1) calendar year from the effective date of appointment to a full-time Firefighter/Medic position with the City. During the probationary period, a bargaining unit employee appointed to a full-time Firefighter/Medic position:

- A. May be assigned by the administration to work any shift and/or position referred to in Article 22;
- B. May be disciplined, including removal from the service with the Fairlawn Fire Department and from City employment, at any time and for any reason without recourse under this Agreement or otherwise; and
- C. Shall not have the right to avail himself of the grievance and arbitration procedure of this Agreement for any reason.

Section 19.2. Firefighter/Medic - Assignment at End of Probationary Period. At the conclusion of a successful probationary period, the administration will notify the employee of his/her permanent work assignment which will either be a 24/48 shift or a 40 hour position. The intent of this Section is to recognize that it is necessary for the administration to have flexibility in assigning work schedules to employees to meet the Department's operational needs, while also recognizing that the customary work schedule for the majority of bargaining unit employees is a 24/48 shift. The intent of this Section is not to provide a basis for the administration to deviate from its practice of assigning a majority of employees to a 24/48 shift.

Section 19.3. Lieutenant. A bargaining unit employee appointed from outside the Department or promoted from within the Department to the position of full-time Fire Lieutenant shall be on probation for a period of one (1) calendar year from the effective date of such appointment or promotion. During the probationary period, an employee who was:

- A. Appointed from outside the Department to the position of full-time Fire Lieutenant, may be disciplined, including removal from the service with the Fairlawn Fire Department and from City employment, at any time and for any reason without recourse under this Agreement or otherwise.
- B. Promoted from within the Department to the position of full-time Fire Lieutenant, may be returned to the position and reduced in rank to the rank which he/she formerly held prior to such promotion, at any time and for any reason without recourse under this Agreement or otherwise.

**ARTICLE 20**  
**SENIORITY**

Section 20.1. Seniority shall be determined by continuous service within rank as a full-time employee with the City of Fairlawn Division of Fire and Rescue and such seniority shall begin with date of full-time hire for Firefighter/Medics and the date of promotion for full-time Fire Lieutenants.

Section 20.2. Break in Seniority. Seniority shall be broken when an employee:

- A. Quits or resigns;
- B. Is discharged for just cause;
- C. Is laid off for a period of more than thirty six (36) consecutive months;
- D. Is absent without leave for three (3) or more work days unless proper excuse for the absence is approved;
- E. Fails to report for work when recalled from layoff within fourteen (14) calendar days from the date on which the Employer sends the employee notice by certified mail (to the employee's last known address as shown on the Employer's records) unless a different date for returning to work is otherwise mutually agreed upon or a later date is specified in the notice.
- F. Fails to report for work as directed following a leave of absence or separation for more than thirty (30) days.

Section 20.3. To the extent that employees have a right under this Agreement to participate in the selection of their shift assignments, request EDOs, vacation leave, compensatory time or holidays to be taken off work, and more than one (1) bargaining unit employee requests the same and/or overlapping selection, the employee who has the highest rank shall have preference in their selection. In the event more than one (1) employee of the same rank requests the same and/or overlapping selection, the bargaining unit employee with the most consecutive years of full-time service in that rank with the Fairlawn Division of Fire and Emergency Rescue Service shall have preference in their selection. For the purposes of this Section, "shift selection" occurs when the City determines that it has a permanent or semi-permanent need to assign an employee to a shift. This Section does not apply to situations where the City seeks to make a short-term temporary assignment to a shift, as in cases where an employee cannot appear for his assigned shift due to illness or injury and the City has a resulting need to assign someone to fill that shift on a short term basis. The Chief retains the right to ensure that qualified employees are available to perform necessary duties, a standard of reasonableness shall apply.

Approved by Fairlawn City Council on February 3, 2014 by Ordinance 2014-006

Section 20.4. Lateral Transfer. At the Mayor's sole discretion, employees who join the Fairlawn Division of Fire & Emergency Rescue after prior service with another municipal or township department (from the City of Fairlawn, or any other municipality or township) will be eligible to have up to four (4) years of prior municipal or township service counted as service within the Fairlawn Division of Fire & Emergency Rescue for the purposes of determining their: (a) wages under Article 37; (b) rate of vacation leave accrual under Article 31 of this Agreement; and (c) credit for prior accumulated and unused sick leave accrual under Article 32 of this Agreement.

## **ARTICLE 21**

### **LAYOFF AND RECALL**

Section 21.1. Any layoff or recall from layoff of employees governed by the Agreement shall be in accordance with the procedures set forth in rules of the Fairlawn Civil Service Commission. Notwithstanding any other contract provision or Commission rule to the contrary, however, seniority for purposes of determining order of layoff and order of recall from layoff shall be determined as follows:

- A. For Fire Lieutenants, according to their seniority within rank based upon their dates of promotion to the rank of full-time Fire Lieutenant; and
- B. For Firefighter/Medics (including any Fire Lieutenants displaced to the rank of Firefighter/Medic as a result of a layoff), according to their continuous full-time service with the Fairlawn Division of Fire and Emergency Rescue Service based upon their dates of full-time hire.

Section 21.2. A ratio of no greater than 4 part-time Firefighters to 1 Full-time Bargaining Unit Member shall be maintained while any Full-time bargaining unit member is on layoff status.

**ARTICLE 22**  
**HOURS OF WORK**

Section 22.1. The Fire Chief shall assign shifts. A permanent rotation of twenty-four (24) hours on and forty-eight (48) hours off shall be instituted, except as otherwise provided for in this Agreement and/or in emergencies. Employees working a twenty-four (24) hour shift shall work an average of fifty (50) hours of work per week. Employees working a forty (40) hour position shall work between the hours of 0700 and 1900 except in cases of temporary assignments, emergencies and/or as may otherwise be mutually agreed to by the employee and administration. If a 24/48 shift or forty (40) hour position is:

- A. Awarded to a bargaining unit employee, resulting in that employee working a different work schedule and/or duties (e.g., reassignment from a 24/48 shift to a 40 hour inspection position), that employee shall serve a one-year trial period during which he may be reassigned at any time to work his former work schedule and duties if the Chief determines that such reassignment is in the best interests of the Fire Department.
- B. Not awarded to a bargaining unit employee, then the City may hire a new employee from outside the bargaining unit to fill the position.

Section 22.2. The Chief shall maintain the right to change the 24/48 hour shift to eight (8) hour shifts for training, critical inspections, seminars, and special assignments such as performing background checks, fire prevention and education, etc.

Section 22.3. Overlapping requests for EDOs, vacation, compensatory time and holidays submitted by two (2) or more bargaining unit members on the same shift are subject to approval of the Chief or his designee. Decisions by the Chief or his designee regarding the approval or disapproval of such requests shall not be considered as precedent setting for future such requests.

**ARTICLE 23**  
**TWENTY-FOUR HOUR SHIFTS**

Section 23.1. In computing time off for any member working a twenty-four (24) hour shift, sixteen (16) hours of vacation, holiday, military, or sick time shall be charged for each twenty-four (24) hour shift taken off. Any percentage of a shift taken off, if partial, shall reflect the same percentage in the sixteen (16) hours used for that time.

Section 23.2. When using compensatory time for time off, all time shall be charged hour for hour from time as described in Article 29.

Section 23.3. EDO requests for the following year shall be submitted between November 1 through November 15. The Administration will acknowledge such EDO requests no later than December 15. To the extent possible without incurring extra cost, the Chief or his designee shall devise schedules so that each employee's EDO falls on the same day of the week. For example, if the first EDO in an employee's schedule is Monday, every subsequent EDO in the schedule should also be a Monday. An employee's request for an EDO day will be honored unless two (2) employees on the same shift request the same EDO day, in which case preference will be given to the employee with the most seniority as provided by Section 20.3 of this Agreement. Eligible EDO days shall be Mondays, Tuesdays, Wednesdays, Thursdays and Fridays.

If the Chief or his designee determines that a program is necessary to balance out the scheduled EDOs, he may implement a program so long as the combination of EDOs, wages and/or compensatory time accounts for the EDOs earned by 24/48 shift employees.

**ARTICLE 24**  
**DURATION AND POSTING OF SCHEDULING**

Section 24.1. The Employer shall set up a master shift schedule for a one (1) year period, posted in convenient locations accessible to employees (such as bulletin board) and copies forwarded to each full-time employee.

**ARTICLE 25**  
**SHIFT EXCHANGE**

Section 25.1. Employees shall have the right to exchange shifts, subject to the approval of the administration.

Section 25.2. Self-trades of EDOs allow an employee working a 24/48 hour shift to work a scheduled EDO, move that EDO to a workday within the same work cycle during which that EDO is earned or during the following work cycle, and then take that subsequent workday as that EDO, all of which is subject, however, to the approval of the Chief or his designee. Self-trades of EDOs can occur only after the initial round of EDO approvals and vacation approvals have been established. If a self-trade is approved and the employee does not take the time off as scheduled, the Chief or his designee may then assign the subsequent use of the time off. Decisions by the Chief or his designee under this Section shall not be considered as precedent setting for any such future incidents.

**ARTICLE 26**  
**ASSIGNMENT DURING DISABILITY (LIGHT DUTY)**

Section 26.1. For purposes of this Article, “physician” means either a Doctor of Medicine (M.D.) or a Doctor of Osteopathic Medicine (D.O.), who is duly licensed to practice medicine in the State of Ohio.

Section 26.2. In the event that the Chief exercises his discretion and grants an employee light duty pursuant to this Article due to health or disability, that employee shall continue to receive all compensation and fringe benefits, including accumulation of seniority attached to his normally assigned position.

Section 26.3. A bargaining unit employee who is not physically capable of performing full duty tasks as a result of an illness or injury to that employee, with approval of a physician and the Chief, may be assigned to light duty tasks on a temporary basis (i.e., not to exceed thirty (30) calendar days), if the Chief determines that such assignments are reasonably available. Such time period may be extended by the Chief in his discretion.

Section 26.4. During a light duty assignment, the employee will be assigned to work a 40 hour work week, at a maximum. Any payroll buyouts occurring while an employee is on approved light duty or following such assignment if the employee does not return to his/her regularly assigned full duties following the light duty assignment, will be paid at the basic rate of pay for the shift that the employee was working when the injury or illness that resulted in the light duty assignment occurred.

Approved by Fairlawn City Council on February 3, 2014 by Ordinance 2014-006

Section 26.5. No employee on leave under this Article shall hold any other employment. Violation of the provisions of this Section shall be grounds for disciplinary action up to and including discharge.

Section 26.6. At the Chief's discretion, the Chief may require a fitness for duty examination based on the injury or illness which caused the light duty assignment at the City's expense by a physician designated by the Chief prior to the employee resuming full duties.

Section 26.7. Decisions by the Chief/designee under this Article are discretionary and shall not be considered as precedent setting.

## **ARTICLE 27** **BASIC RATE OF PAY**

Section 27.1. "Basic rate of pay" equals annual salary divided by 2704 hours for employees assigned to a 24/48 hour shift. "Basic rate of pay" equals annual salary divided by 2080 hours for employees regularly assigned to a forty (40) hour per week schedule. Basic rate of pay applies to overtime payments and payments of accrued time (e.g., compensatory time, holiday compensatory time, etc.).

## **ARTICLE 28** **OVERTIME PAY**

Section 28.1. Employees become eligible for overtime compensation when they work in excess of the standard, scheduled number of hours appropriate for their position and shift. Overtime compensation shall be paid in cash when the responsible administrative superior determines that it would be detrimental to the operation of the department wherein the employee renders service to grant compensatory time for each hour or fraction thereof at the rate of one and one-half (1.5) times the employee's "basic rate of pay" as defined in Article 27. Overtime pay shall be claimed, accounted for and paid for in the paycheck issued for compensation for the specific pay period within which the overtime work occurred. Holiday, vacation, sick and compensatory days shall be part of the standard scheduled work period for the purpose of computing overtime pay.

Section 28.2. Dual Employment with the City. In the case of a bargaining unit member who also is employed by the City in a different job, the City is authorized to execute an individual overtime agreement with that employee. The individual agreement may provide for a different method of computing overtime than used for those members of the bargaining unit who work for the City in only one (1) job.

**ARTICLE 29**  
**COMPENSATORY TIME**

Section 29.1. Each employee shall elect to take at his/her discretion overtime, as paid compensation or compensatory time.

Section 29.2. Compensatory time shall be permitted by the terms and conditions of this Agreement. An employee shall be entitled to accumulate compensatory time not to exceed 260 hours and said time may be carried through the next calendar year.

Section 29.3. Should compensatory time be requested by two (2) or more employees, preference will be given to the employee with the most seniority as provided by Section 20.3 of this Agreement. Such request should be made thirty (30) days prior to the date requested subject to administration's approval.

Section 29.4. Compensatory time shall be charged in minimum units of one-quarter (1/4) hours, but in any case, compensatory time shall not be permitted during emergency conditions.

Section 29.5. Compensatory time shall be kept in its own time bank.

**ARTICLE 30**  
**HOLIDAYS**

Section 30.1. Holidays. The following shall be considered legal holidays:

New Year's Day	January 1
Easter Sunday	Designated Sunday
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	1 <sup>st</sup> Monday in September
Columbus Day	2 <sup>nd</sup> Monday in October
Thanksgiving Day	4 <sup>th</sup> Thursday in November
Day after Thanksgiving	4 <sup>th</sup> Friday in November
Christmas Eve	December 24
Christmas Day	December 25
New Year's Eve	December 31

In addition, each employee shall receive two (2) personal days.

Section 30.2. Work on Holiday. When a holiday falls on a 24/48 shift employee's regularly scheduled workday, that employee shall be scheduled to work the holiday.

Section 30.3. Holiday Compensation for 40-Hour Per Week Employees.

- A. When a holiday falls on a 40-hour employee's regularly scheduled day off, that employee shall receive eight (8) hours of holiday compensatory time at his or her regular rate of pay.
  
- B. When a 40-hour employee is authorized or required to work on a holiday, he shall be paid one and one-half (1-1/2) his regular rate of pay for the hours worked, and he shall receive eight (8) hours of holiday pay or holiday compensatory time (or a prorated amount if the employee works less than eight (8) hours on the holiday). A request by an employee working a 40-hour schedule to work on a holiday should be made to the Fire Chief or his designee prior to drafting of the fill-in schedule.

- C. When a 40-hour employee is not scheduled to work on Thanksgiving Day, Christmas Eve, Christmas Day, or New Year's Eve but is authorized or required to work on any of those four (4) holidays and/or responds to an off-duty all-call on any of those four (4) holidays, he will be paid double time for such hours worked. When a 40-hour employee is authorized or required to work on any of those four (4) holidays under any other circumstances, he shall be paid at the rate provided in Section 30.3(B).

Section 30.4. Holiday Compensation for 24/48 Shift Employees.

- A. Each 24/48 shift employee shall annually receive 143 hours in a holiday bank to cover his time off during the year for the holidays and personal days as set forth in Section 30.1. On the first pay period in January, 71.5 hours will be accrued, and on the first pay period in July, 71.5 hours will be accrued. If a 24/48 shift employee is compensated for holiday time in advance of his separation of employment with the City, the City is authorized to withhold or otherwise collect from such employee the amount so advanced, in proportion to the time worked during the six-month period in question.
- B. When a 24/48 shift employee is authorized or required to work on a holiday, he shall be paid one and one-half (1-½) his regular rate of pay for the hours worked.
- C. When a 24/48 shift employee is not scheduled to work on Thanksgiving Day, Christmas Eve, Christmas Day, or New Year's Eve but is required to work on any of those four (4) holidays and/or responds to an off-duty all-call on any of those four (4) holidays, he will be paid double time for such hours worked. When a 24/48 shift employee is required to work on any of those four (4) holidays under any other circumstances, he shall be paid at the rate provided in Section 30.4(B).

Section 30.5. Holiday Pay in Case of Death. In the case of death of an employee, any approved holiday earned as compensatory time shall be paid to the estate of the deceased.

Section 30.6. Holiday compensatory time shall be kept in its own bank. Holiday compensatory time not used within the year in which it was earned shall be paid in the first pay period of the following year.

**ARTICLE 31**  
**VACATION**

Section 31.1. Each employee shall earn and be credited with vacations in such a manner herein provided, upon completion of:

<u>Years of Service</u>	<u>Weeks of Vacation</u>
1 but less than 5	2 weeks
5 but less than 12	3 weeks
12 but less than 20	4 weeks
20 but less than 23	5 weeks
Over 23 years	6 weeks

Vacation benefits are subject to the following computations and rules.

Section 31.2. In computing service for vacation purposes, full credit shall be given for all services rendered in the probationary status, provided such member immediately after probationary status becomes an employee eligible to receive vacation.

Section 31.3. Vacation requests shall be scheduled at the member's preference, except that such selection may be denied by the Chief if it interferes with the efficient operations of the department.

Section 31.4. Vacation requests for the following year of vacation shall be made between November 1 through November 30. The Administration will acknowledge such requests no later than December 15. If more than one request is made for the same date or an overlap should occur of a vacation request, preference will be given to the employee with the most seniority as provided by Section 20.3 of this Agreement. Any vacation requests that are made after November 30 shall be granted by the Administration in such a manner as to maintain the greatest efficiency of the department.

Requests for changes in approved, scheduled vacations shall be submitted to the Chief or his designee at least thirty (30) days prior to the start of an approved vacation leave. Such time period may be waived by the Chief or his designee. Decisions by the Chief/designee regarding requests for changes in approved, scheduled vacations, or for waivers in the time period provided herein, shall not be considered as precedent setting for future such requests.

Section 31.5. Any member that has received credit of service for employment in another agency or political subdivision for the purpose of vacation benefit shall continue to receive such benefit.

Approved by Fairlawn City Council on February 3, 2014 by Ordinance 2014-006

Section 31.6. Vacation benefits shall be effective on the employee's anniversary date of each year.

Section 31.7. Accumulation. Vacations are not cumulative except an employee may carry over one (1) week of vacation to be taken not later than his/her anniversary date in the following year. In such a case, a request for carry over shall be made by written notice to the Chief. The only other exception will be that the employee may carry over vacation earned for the three (3) years prior to the employee's retiring date and paid in accordance with the wage rate at the time the vacation is earned.

Section 31.8. Effect of Leave of Absence. Any leave of absence in a non-pay status of thirty (30) days or more shall be deducted when computing eligibility for vacation leave due.

Section 31.9. Vacation Pay in Case of Death. In the case of death of an employee, any approved vacation leave earned shall be paid on the prorated basis to the date of death to the estate of the deceased.

Section 31.10. Separation from Service. Upon separation from service, an employee shall be entitled to compensation for the prorated portion of any earned but unused vacation leave to his credit at the time of separation. This does not apply to those employees who have less than one (1) year of service. Computation of accumulated vacation for eligible employees leaving the service shall be made on the following basis:

- A. A two (2) week vacation earns 3.088 hours per pay period of service;
- B. A three (3) week vacation earns 4.615 hours per pay period of service;
- C. A four (4) week vacation earns 6.154 hours per pay period of service;
- D. A five (5) week vacation earns 7.692 hours per pay period of service;
- E. A six (6) week vacation earns 9.240 hours per pay period of service.

Section 31.11. Bargaining unit employees may convert to cash each year up to one-half of their accrued and unused vacation entitlement for that year. Upon paying an employee for such vacation leave, the amount of vacation leave converted to cash shall be subtracted from that employee's vacation leave bank.

**ARTICLE 32**  
**SICK LEAVE**

Section 32.1. Policy. It shall be the policy of the City to provide sick leave with pay for its permanent, full-time employees; payment for earned sick leave will be paid pursuant to Section 32.2 of this Article upon regular or disability retirement only.

Section 32.2.

- A. Eligibility. Each employee shall earn 4.6 hours with pay for each completed two (2) weeks of service. There shall be no limit to the number of sick leave hours earned by bargaining unit members with 14 years of full time service with the City of Fairlawn. Up to 4 years of lateral transfer time shall be applied.
- B. Upon retirement or death, any employee with fifteen (15) years of full time service (not counting lateral transfer time) with the City of Fairlawn shall be paid for up to six hundred (600) hours of unused sick leave at his annual base salary at the time of retirement or death divided by 2080.
- C. Any employee who was granted more than seven hundred twenty (720) hours prior to January 1, 1993 for payment at retirement shall retain the right for said payment, and be paid at his annual base salary at the time of retirement or death divided by 2080.

Section 32.3. Utilization.

- A. An employee absent on sick leave is required to notify his/her immediate supervisor of his/her inability to report for work as soon as possible before the start of the work day. If such notification is not made, the absence may be charged upon the recommendation of the department head to leave without pay. Compensation for sick leave absences of more than twenty-four (24) working hours shall require a written excuse from a physician.
- B. Sick leave shall be charged in minimum units of one quarter (1/4) hours. An employee shall be charged for sick leave only for days upon which he/she would otherwise have been scheduled to work.
- C. Sick leave will be granted to employees only upon approval of the Chief/designee for the following reasons:

1. The illness, injury or disability of: (a) an employee; or (b) a member of the employee's immediate family requiring the care and attendance of the employee;
2. Exposure of an employee to a contagious disease communicable to other employees; or the affliction of a member of an employee's immediate family with a contagious disease requiring the care and attendance of the employee;
3. Childbirth and/or a disability related to pregnancy of an employee or a member of the employee's immediate family; or
4. Medical, dental or optical examinations or treatment of (a) an employee or (b) a member of the employee's immediate family requiring the care and attendance of the employee.

D. In the case of sick leave absences for reasons specified in Subparagraph (C)(2) of this Section, a written statement from a physician must be supplied to the department head certifying the nature of the absence of the employee.

Section 32.4. Any employee who uses no sick time during a 12 month period on a rolling calendar starting from the last date of used time shall be entitled to compensatory time as follows: (a) a forty (40) hour employee shall be entitled to eight (8) hours of compensatory time; and (b) a 24/48 hour employee shall be entitled to twenty-four (24) hours of compensatory time. The 12 month rolling calendar period starts from the date the compensatory time is earned.

Section 32.5. Employees can donate up to one-half (½) of their earned sick time to help a fellow employee who has used all their accrued paid time (sick leave, vacation leave, holidays, personal days, compensatory time) in the recovery of a major illness or injury. This may be done on an individual basis and is strictly voluntary; however, contributing employees must maintain a minimum of 240 hours of accrued and unused sick leave in their own bank.

Section 32.6. As used in this Article, "immediate family" means the husband, wife, legally dependent child, mother or father of an employee.

Section 32.7. The Chief reserves the right to have an employee alleging illness or injury of two (2) weeks (i.e., 14 calendar days) or more to submit to a physical examination or examinations in the Chief's sole discretion and at the City's expense.

Section 32.8. Any abuse or patterned use of sick leave may be just and sufficient cause for disciplinary action.

Section 32.9. Falsification of sick leave may be grounds for disciplinary action up to and including dismissal.

**ARTICLE 33**  
**JOB-RELATED MEDICAL LEAVE OF ABSENCE**

Section 33.1. Definitions. As used in this Article:

- A. “Actual discharge of duty” means injuries incurred specifically in the performance of activities unique to duties within the Fire Department.
- B. “Physician” means either a Doctor of Medicine (M.D.) or a Doctor of Osteopathic Medicine (D.O.), who is duly licensed to practice medicine in the State of Ohio.

Section 33.2. Permanent full-time employees who are injured in the actual discharge of duty, and who, as a result thereof, are physically unable to perform their regularly assigned duties shall receive full pay and benefits for such time as may be equitable, but not to exceed 720 work hours, provided that all of the following requirements are met:

- A. A physician provides a written statement certifying that the employee is unable to physically perform his/her regularly assigned duties due to the injury sustained while in the line of duty, and the employee provides the physician’s statement to the Fire Chief;
- B. The Fire Chief recommends the approval of the requested injury leave to the Mayor; and
- C. The Mayor approves the requested injury leave.

Upon request by the employee, leave for injury in the line of duty may be extended beyond 720 work hours.

Section 33.3. During any leave under this Article, a 24/48 shift employee’s schedule will be changed to a 40 hour work week. Seniority, vacation benefits and pension credits shall be given for the time spent on such a leave of absence. Any payroll buyouts occurring while an employee is on leave under this Article or following such leave if the employee does not return to his/her regularly assigned full duties following the leave, will be paid at the basic rate of pay for the shift that the employee was working when the injury or illness that resulted in the leave occurred.

Approved by Fairlawn City Council on February 3, 2014 by Ordinance 2014-006

Section 33.4. No employee on leave under this Article shall hold any other employment. Violation of the provisions of this Section shall be grounds for disciplinary action up to and including discharge.

Section 33.5. Approved injury leave shall not be charged against the employee's sick leave as of the effective date of the Mayor's approval of the injury leave. However, a deduction may be made to the extent of any payments received under the Workers' Compensation Act. If sick leave is used for an injury that is later approved by the Mayor as injury leave under this Article, after resuming full duties for twelve continuous months, the employee may petition the Mayor for reinstatement of the sick leave used for that injury.

Section 33.6. At the Chief's discretion, the Chief may require a fitness for duty examination based on the injury or illness which caused the injury leave under this Article at the City's expense. The fitness for duty examination shall be conducted in accordance with Article 49.

Section 33.7. All recommendations by the Fire Chief and all decisions by the Mayor under this Article are discretionary and are made on a case-by-case basis, and will not be considered as precedent setting for future such recommendations and decisions.

## **ARTICLE 34** **FUNERAL LEAVE**

Section 34.1. A bargaining unit employee working a 40 hour work schedule shall be permitted up to three (3) working days off with pay, upon proper notification to the Administration of the department, of a death of his or her mother, father, child, husband, wife, brother, sister, grandparent, brother-in-law, sister-in-law, mother-in-law, father-in-law, guardian, spouse's grandparent, or stepchildren. The funeral leave must be continuous and shall include the date of the funeral, unless the funeral occurs on the employee's day off, in which case the funeral leave shall include the employee's work day closest to the date of the funeral.

Section 34.2. Employees working on 24/48 hour shifts are entitled to take funeral leave, subject to the restrictions identified in Section 34.1 of this Agreement, except that such employee shall be permitted up to one and one half (1-½) shifts off with pay for funeral leave.

**ARTICLE 35**  
**JURY DUTY LEAVE**

Section 35.1. Any employee who is called for jury duty shall be paid his or her regular compensation. All compensation received for such jury duty must be reimbursed to the City upon the employee's return to work.

**ARTICLE 36**  
**LEAVE WITHOUT PAY**

Section 36.1. Leave Without Pay. The authorization of leave without pay is a matter of administrative discretion.

**ARTICLE 37**  
**WAGES**

Section 37.1. Fire/Medics' Wages. Beginning on January 1, 2014 and effective through December 31, 2016, the salary schedule for bargaining unit members with the following years of full-time service as a Fire/Medic with the City shall be increased 2.0% effective January 1 in 2014 and 2015, with a reopener for wage increases effective January 1, 2016, as follows:

<u>Years of Service</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>
0-1 year	\$50,350.08	\$51,357.08	[reopener]
1-2 years	\$56,769.33	\$57,904.72	"
2-3 years	\$60,026.63	\$61,227.16	"
3-4 years	\$63,288.38	\$64,554.15	"
4 years and over	\$68,209.06	\$69,573.24	"

The wage rate shall be determined at the employee's completed years of service, effective on the employee's anniversary date of his or her date of employment.

Section 37.2. Fire Lieutenants' Wages. Beginning on January 1, 2014 and effective through December 31, 2016, the salary schedule for bargaining unit members with the following years of full-time service as a Fire Lieutenant with the City shall be increased 2.0% effective January 1 in 2014 and 2015, with a reopener for wage increases effective January 1, 2016, as follows:

<u>Years of Service</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>
Less than 1 year	\$70,937.42	\$72,356.17	[reopener]
1 year and over	\$76,725.92	\$78,260.44	"

The wage rate shall be determined at the employee's completed years of service, effective on the employee's anniversary date of his or her date of employment.

Section 37.3. Out of Classification Wage. When there is no Full-Time Fire Captain or Full-Time Fire Lieutenant on duty, the most senior Full-Time Fire/Medic on duty shall be the Acting Shift Commander. When a Full-Time Fire/Medic works as the Acting Shift Commander, he/she shall be paid his/her base hourly rate plus \$1.50 per hour for all hours worked in that capacity.

**ARTICLE 38**  
**TRAINING TIME**

Section 38.1. It shall be the responsibility of each employee to maintain certain certifications essential to comply with the job responsibilities assigned to that employee. The City shall attempt to provide the opportunity for employees to meet re-certification requirements at the Fire Station.

Section 38.2. If the opportunity for necessary training is not provided, or if the opportunity is provided, and the employee is unable to attend due to circumstances caused by the City, the City shall pay the tuition and provide required materials for training which an employee shall complete elsewhere.

Section 38.3. Employees shall attend required training sessions and shall be compensated in accordance with Section 28.1 of this Agreement. Employees should be given thirty (30) days' notice prior to training date.

Section 38.4. Each employee shall be provided a bank of thirty-six (36) continuing education hours annually to be used for EMS trainings occurring outside of their normal workday. Each employee must annually use a portion of his/her bank to attend, in-person, a minimum of fifty percent (50%) of the required paramedic trainings conducted by the Department's Medical Advisor. The remainder of the bank may be used for EMS trainings that have been approved by the State of Ohio for continuing education. The hours in the bank may be used for actual time attended at a qualifying trainings including authorized break time. However, the City shall not be responsible for payment for any other incidentals in connection with trainings under this Section (e.g., travel time, mileage reimbursement, registration fees, hotel accommodations, meals, etc.). Hours from this bank not used in a given year may not be carried over into the next year. Notice will be given to the administration before attending EMS trainings not conducted by the Department's Medical Advisor.

Section 38.5. Failure to maintain department-required trainings, certifications and/or the approval of the Department's Medical Advisor to work under the Medical Advisor's medical license will subject bargaining unit employees to disciplinary action up to and including termination.

**ARTICLE 39**  
**TRAINING EXPENSE RECAPTURE**

Section 39.1. Training Expense Recapture. Each employee hired after the effective date of this Agreement, as a condition of his or her employment by the City of Fairlawn, shall reimburse the City for any training or education expense incurred on his or her behalf, if such employee leaves the employment of the City within two (2) years following the completion of their probationary period. This provision does not relieve any employee from an unexpired training expense reimbursement obligation arising under the prior collective bargaining agreement.

**ARTICLE 40**  
**TUITION REIMBURSEMENT**

Article 40.1. Tuition Reimbursement. The City of Fairlawn will reimburse full-time employees for job related pre-approved coursework for which an employee receives a “C” or better final grade in accordance with the provisions of this Article.

Section 40.2. Coursework Qualifying for Reimbursement. Full-time employees will be reimbursed for a job-related graduate, undergraduate, secondary or vocational school course of study, at an accredited institution which is approved by the Chief and the Director of Finance before the period of study for the course begins.

Section 40.3. Payment for Qualifying Coursework. A full-time employee who achieves a “C” or better final grade in a pre-approved qualifying course shall receive reimbursement for tuition and required textbook costs as follows: 100 percent for an “A”, 90 percent for a “B”, and 80 percent for a “C”.

Section 40.4. Effective for payments made by the City under this Article on or after January 1, 2006, employees shall reimburse the City on a prorated basis for any expense incurred by the City on the employee’s behalf under this Article, if such employee leaves the employment of the City within three (3) years following any such payment by the City.

**ARTICLE 41**  
**SENIORITY INCENTIVE**

Section 41.1. Each bargaining unit employee who accumulates the following years of full-time service with the Fairlawn Division of Fire and Emergency Rescue shall be entitled to the following amounts annually. Payments will be made the period following the employee's anniversary date.

5-9 years	\$500.00
10-14 years	\$750.00
15-19 years	\$1,000.00
20 and up	\$1,250.00

**ARTICLE 42**  
**PENSION PICK-UP PLAN**

Section 42.1. The City will, if legally responsible, initiate a pension "pick-up" plan where the City shall "pick-up" the employee's required contribution to Police & Firemen's Disability and Pension Fund without additional cost to the City and in accordance with applicable Internal Revenue Service rulings and Ohio Attorney General Opinions. The employee's contributions which are "picked-up" by the City shall be treated in the same manner as contributions made by the employees prior to the commencement of the "pick-up" plan and will, therefore, be included in "compensation" for Police & Fireman's Disability and Pension Fund calculations, and for fixing compensation of employees as set forth in this Agreement. For all other purposes, except for deferring state and federal taxes, the employee's wages shall remain as he or she is currently placed on the wage scale.

**ARTICLE 43**  
**UNIFORM ALLOWANCE**

Section 43.1. Employees shall have a yearly clothing allowance of \$1,000.00 per year, administered according to departmental rules and regulations on a PO voucher system.

**ARTICLE 44**  
**INSURANCES**

Section 44.1. City/Employee Contributions.

A. Health Insurance.

1. Employees shall pay the following health insurance premium contributions:
  - a) 3.5% of premium capped at premium increases up to 10% of premium; and,
  - b) ½ of premium increases greater than 10% but capped at 15%
2. The employee's contribution toward the health insurance premium shall be deducted from pre-tax dollars from the employee's paycheck pursuant to a Section 125 Plan, subject to IRS regulations.

B. Dental Insurance.

1. Employees shall pay the following dental insurance premium contributions:
  - a) 3.5% of premium capped at premium increases up to 10% of premium; and,
  - b) ½ of premium increases greater than 10% but capped at 15%
2. The employee's contribution toward the dental insurance premium shall be deducted from pre-tax dollars from the employee's paycheck pursuant to a Section 125 Plan, subject to IRS regulations.

Section 44.2. HSAs. If Health Savings Accounts (HSAs) are offered, the City will fund a participating employee's HSA at the level of up to but not more than 100% of the deductible. The City's contribution will be from the premium savings for the plan selected, generated by the employee's participation in a qualifying High Deductible Health Plan. The City will retain: (a) any premium savings remaining after funding an HSA at 100% of the deductible; and (b) any HRA balances that are not spent down as permitted by federal law by any employee enrolled in an HSA plan. HSA funding will be prorated monthly. For purposes of this Section, deductible means the in-network deductible for the HSA plan enrolled in.

Approved by Fairlawn City Council on February 3, 2014 by Ordinance 2014-006

Section 44.3. HRAs. Health Reimbursement Accounts (HRAs) will be maintained and funded by the City for the duration of this Agreement at the levels in effect as of the effective date of this Agreement (\$2,000 for family/\$1,000 for single), subject to applicable federal regulations governing HRAs. An employee may carry over up to half of the annual funded amount (\$1,000 for family/\$500 for single) of his HRA annually. This carry over will not count towards the amount the HRA is funded annually, however, the maximum funding in an account including the carry over is limited to \$3,000 for family/\$1,500 for single. In any year in which an employee is enrolled in an HSA plan, such employee will not receive the HRA contribution described in this Section. HRA balances are not subject to rollover into an HSA.

Section 44.4. Vision/Dental. In addition to the HSA described in Section 44.2 and the HRA described in Section 44.3, the City shall reimburse employees up to One Hundred Fifty Dollars (\$150.00) per year for qualified vision care expenses and/or for qualified unreimbursed dental care expenses as permitted by IRS regulations. This vision/dental benefit does not carry over but increases the maximum funding levels in Section 44.3 by \$150 and may be administered with an HSA or HRA as permitted by applicable IRS regulations. The employee shall provide the City with a receipt as proof of the cost of eye care services and unreimbursed dental care expenses.

Section 44.5. Life Insurance. The City shall provide life insurance for the bargaining unit members. The amount of life insurance shall be \$50,000.00. Employees may purchase at their own cost additional life insurance, if such option is offered.

Section 44.6. Changes in Eligibility. Any time a circumstance occurs which changes any insurance coverage eligibility (e.g., marriage, divorce, birth of child, dependent no longer eligible, etc..) for a covered employee and/or family member, the employee shall notify the Finance Department, in writing, with appropriate documentation, of such change within ten (10) calendar days of the event so the appropriate changes may be made to ensure proper insurance requirements and time-lines are met.

Section 44.7. Cash Waiver Incentives.

- A. If there is one health insurance plan offered by the City and an employee voluntarily waives coverage or opts for less coverage than what the employee is eligible to receive, the employee shall receive a cash waiver incentive of twenty-five percent (25%) of the City's premium cost savings generated by the employee's participation in the cash waiver program.
- B. The following scenarios apply if there is more than one health insurance plan offered by the City:

1. If an employee voluntarily waives coverage that he/she is eligible to receive, the employee shall receive a cash waiver incentive of twenty-five percent (25%) of the City's premium cost savings for the most expensive health insurance plan offered by the City.
  2. If an employee voluntarily opts for less coverage than what he/she is eligible to receive, the employee shall receive a cash waiver incentive of twenty-five percent (25%) of the City's premium cost savings within the plan selected by the employee (i.e., any cash waiver incentives provided under any plan other than the plan selected are not applicable and may not be combined with the employee's cash waiver incentive).
- C. Cash waiver incentives shall not be paid more than once to the same employee (i.e., there shall be no pyramiding of this benefit).
- D. The cash waiver election may occur during open enrollment or when a "qualifying event" occurs (e.g., birth or adoption of a child, marriage, loss of coverage due to spouse's separation from employment, divorce, death, etc.), provided that no cash waiver election may be made on a retroactive basis. Cash waiver payments shall be paid monthly and shall be prorated, based upon the 12-month calendar year (January 1 – December 31).
- E. HRA funds shall be available to employees who waive coverage on the same terms as employees who elect health insurance coverage through the City for which an HRA is provided, subject to the rules for funding HRAs established by the applicable federal regulations.
- F. Life insurance and dental insurance coverage shall be available to employees who waive health insurance coverage on the same terms as employees who elect health insurance coverage through the City.
- G. Prior to making a cash waiver election, interested eligible employees shall submit verification to the City's Finance Department that the affected persons (employee and, if applicable, eligible dependents) are covered under other health insurance without a lapse in coverage as a result of the cash waiver election.
- H. In waiving or opting for less coverage, employees shall be solely responsible to know, fully investigate and understand the differences between the City's coverage and the health care coverage which they have selected when opting out of the City's coverage, and for determining that the coverage which they have selected when opting out of the City's coverage is satisfactory to meet their needs.

Section 44.8. Married/Spouse Employees. City employees who are married to each other and are otherwise eligible for health insurance through the City shall be eligible to receive, if they have no eligible dependents, either two single plans (one each) or one employee/spouse plan; or, if they have one or more eligible dependents, either one shared family plan or one single plan and one employee/child(ren) plan.

Section 44.9 Health Insurance Committee.

- A. The bargaining unit agrees to participate in a City-wide Health Insurance Committee, which shall meet at least once per quarter per year in order to address the rising cost of the City's health and/or dental insurance coverage and to explore options to contain the cost of such coverage. The Committee shall annually elect a Chairperson who shall be a voting member of the Committee and shall schedule the Committee's meetings and arrange for notice of the meetings to all Committee members. If the Committee is unable to elect a Chairperson, the Chairperson shall be appointed at random from among the Committee's voting members. There shall be no subcommittees of the Health Insurance Committee.
  
- B. The Committee shall consist of voting members and non-voting members. The Committee's voting members are: one member representing the City's full-time non-bargaining employees; one member from the FOP representing the full-time Patrol Officers and Sergeants; one member from the IAFF representing the full-time Fire/Medics and Lieutenants; one member from the IBT representing the full-time Laborers and Supervisors; and one member from the OPBA representing the full-time Communications Specialists (the Union designations are subject to change if any different employee organizations are subsequently recognized by SERB). All voting members of the Committee shall be participants in the City's health and dental insurance coverage. The Committee's non-voting members are: the Mayor or designee, the Finance Director or designee, the Law Director or designee, and the City's insurance agent/consultant as appointed by the Mayor.

- C. The Committee shall have the authority to direct the City's insurance agent/consultant to obtain proposals. The Committee shall have the authority to decide, by a majority vote of its full voting members, the health and/or dental insurance coverage options available to the City's full-time employees. However, unless the Committee obtains the Mayor's express written approval, the Committee shall not have the authority to select any coverage/option (a) involving self-insurance by the City or (b) the City joining any insurance pool, group or consortium. In selecting health and/or dental insurance coverage options, the Committee shall contain the cost at a maximum increase of a 15% per year. Any health and/or dental insurance cost increase greater than 10.0% will be shared equally by the employees and the City. If in any year the Committee is unable to reach a decision involving the selection of health and/or dental coverage within the City's normal time-frame for renewal, the Mayor shall be authorized to decide and implement the coverage, provided that: (a) the cost for the coverage does not increase more than 15%; and (b) the coverage was a plan that was considered by the Committee.

Section 44.10. Reopener. This Article is subject to reopener for year 2016.

**ARTICLE 45**  
**COMPENSATION UPON RESIGNATION, DISMISSAL, RETIREMENT OR LAYOFF**

Section 45.1. An employee who resigns, retires, is dismissed or laid-off is eligible and shall be compensated accordingly for all his accumulated overtime, compensatory time, holiday time, vacation time, including pro-rata pay due for the current year at his current rate of pay. Employees will be compensated for sick leave only to the extent authorized in Section 32.2 of this Agreement.

**ARTICLE 46**  
**DRUG TESTING**

Section 46.1. Employee Education Regarding Drug Testing. There will be a ninety (90) day education and information period prior to the implementation of testing for new employees. All new employees will be informed of the Department's drug testing procedures. New employees will be provided with information concerning the impact of the use of drugs on job performance. In addition, the Employer will inform new employees of the manner in which these tests are conducted, the reliability of the tests performed, under what circumstances employees will be subject to testing, what the tests can determine, and the consequences of testing positive. All new employees will be provided with this information when initially hired. A record will be maintained of the employee's receipt of this information.

Section 46.2. Drug Testing. Drug testing shall be conducted where there is a reasonable suspicion (described below); upon an employee's return to duty after completion of a rehabilitation program, or upon return to duty after being off duty for six (6) months or more.

Reasonable suspicion that an employee is using or abusing drugs must be based upon objective facts or specific circumstances found to exist which present a reasonable basis to believe that an employee is using or abusing drugs. Examples of where reasonable suspicion shall be deemed to exist include, without limitation, the following:

1. Where there has been a serious on-duty injury to an employee or another person, the cause of which is otherwise unexplained;
2. Where an employee, while operating a City vehicle, becomes involved in a traffic accident which results in physical harm to persons or property, and where the circumstances raise a question as to the existence of substance abuse by the employee involved;
3. Where there is observable phenomena, such as direct observation of drug use, possession or distribution, or the physical symptoms of being under the influence of drugs (e.g. slurred, rambling or incoherent speech, dilated pupils or bloodshot eyes, odor of marijuana, unexplained lack of coordination, impaired reaction time, sweaty or flushed skin, staggering or unsteady walk, changes in affect, dynamic mood swings, etc.);
4. Where there is a pattern of abnormal conduct, erratic or aberrant behavior, or deteriorating work performance which appears to be related to substance abuse and does not appear to be attributable to other factors; and

5. Where an employee is identified as the focus of a criminal investigation into unauthorized drug possession, use or trafficking; or a report of drug use provided by a reliable and credible source.

Drug testing hereunder shall be conducted solely for administrative purposes and the results obtained shall not be used in criminal proceedings. Under no circumstances may the results of this drug testing be released to a third party for the use in a criminal prosecution against the affected employee. The following procedure shall not preclude the Employer from other administrative action.

Section 46.3. Authorized Laboratories. All drug tests shall be conducted by laboratories certified by the Federal Department of Health and Human Services (DHHS). The procedure utilized by the testing lab shall include a chain of custody procedure in compliance with DHHS recommendations and Gas Chromatography/Mass Spectrometry (GC/MS) confirmation of any positive initial drug screening.

Section 46.4. Procedure. Drug tests shall be administered by urinalysis for the following drugs: amphetamines, barbiturates, benzodiazepines (valium, librium, etc.), cannabinoids (THP), cocaine (including crack), methadone, methaqualones, opiates, phencyclidine (PCP) and propoxyphene (darvon). An employee who initially tests positive shall be immediately removed from duty and placed on unpaid leave. If the initial screening is positive, within 72 hours of notification from the medical review officer, the employee may request a confirmation test of a split specimen, at a different DHHS approved laboratory. If the confirmation test is negative, the employee shall be immediately returned to duty and reimbursed for all lost wages. Any employee who refuses to submit to the above identified tests shall be subject to the disciplinary procedure.

If an employee voluntarily enrolls in a qualified treatment program the City shall permit the employee to participate in a rehabilitation program specified by a substance abuse professional, if such program is covered by the employee's health insurance program. An employee who participates in a rehabilitation program shall be allowed to use sick leave, vacation leave, or available compensatory time for the period of the program. Apart from such use of paid leave, the employee will be relieved from duty in unpaid status. Upon evaluation and certification by a substance abuse professional or medical review officer that the employee has successfully completed the recommended rehabilitation program and a return to duty test that demonstrates that the employee is no longer using/abusing drugs, the employee shall be returned to his or her position. Such employee shall be subject to follow up testing for a period of one year from the date of his or her return to work.

For the purpose of this Article, follow up testing shall involve a minimum of four (4) unannounced tests during the year following his or her return except that drug tests may be performed at any time upon reasonable suspicion. Costs of all drug screening and confirmation tests which are required by the City shall be borne by the City.

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An employee will be subject to disciplinary action under this Article for any of the following reasons: when the employee reports for duty or performs work and tests positive for using a prohibited drug after having once completed a drug rehabilitation program; refuses to submit to a drug test; fails to complete rehabilitation program the employee has entered pursuant to this Article; alters or attempts to alter drug test results; or if the employee tests positive at any time within the year following his or her return to work.

Section 46.5. Medical Releases. For purposes of implementing the provisions of this Article, each employee shall execute medical releases in order for the City to obtain the results of the physical examinations and drug testing provided for in this Article. Except as otherwise provided by state or federal law with regard to communicable diseases or with the permission of the employee, the releases referred to in this Section shall authorize only the release of examination results and progress reports pertaining to the drug test results. No other medical finding may be released without the express written permission of the employee, except that without a release from the employee, the Employer may disclose information pertaining to an employee's drug testing to a decision-maker in a grievance or other proceeding initiated by or on behalf of an employee and arising from the results of a drug test.

## **ARTICLE 47**

### **SECONDARY EMPLOYMENT**

Section 47.1. Outside employment shall be permitted subject to the approval of the Fire Chief. Under no conditions will outside employment be permitted to interfere with an employee's regular work schedule. Under no condition will outside employment be permitted if it interferes with the employee's fitness, attitude, performance, or work output.

Section 47.2. Employees who are otherwise permitted to engage in secondary employment under this Article are prohibited from doing so during any day when they are: (a) on approved light duty; or (b) absent from work with the Department on funeral leave, sick leave, job-related medical leave of absence, and/or Workers Compensation.

**ARTICLE 48**  
**OFF-DUTY CALLS**

Section 48.1. Employees shall be considered on call anytime off duty when available, when within a reasonable responding distance to the City Fire Station.

Section 48.2. Employees shall not be required to respond to off-duty calls unless requested to do so. Employees agree to wear a paging device within a reasonable responding distance to the City as a general rule.

Section 48.3. Employees shall be compensated for a minimum of one hour for all off duty calls and shall be compensated in accordance with Section 28.1 of this Agreement.

**ARTICLE 49**  
**FITNESS FOR DUTY**

Section 49.1 Should reasonable cause exist that an employee is not fit for duty the Employer may place that employee on paid administrative leave pending completion of the fitness for duty examination process, as detailed herein. As used throughout this Article, the term “physician” includes “psychologist” and “psychiatrist.”

Section 49.2 The initial fitness for duty examination will be performed by a physician selected and paid for by the Employer. Prior to any examination the City will supply the examining physician with the current written job description for the employee’s position and documentation detailing the facts indicating the employee is not sufficiently fit to perform his or her essential job duties. Copies of all documentation provided to the physician shall be simultaneously provided to the employee subject to testing. Following the examination the physician shall provide the Employer and the employee a written report detailing the physician’s determination of the employee’s fitness for duty, including specification of any reasonable accommodations that could be made, if necessary. The employee shall be entitled to copies of all examination results and documentation associated with the examination. Failure by the employee to submit to the initial fitness for duty examination may be grounds for discipline, up to and including termination of his/her employment.

Section 49.3 The employee shall have the right to submit to a fitness for duty examination by a physician of the employee’s choice at any time. Costs associated with the fitness for duty examination by a physician of the employee’s choice shall be paid by the employee. To remain on paid administrative leave pending completion of the fitness for duty examination process, the employee must notify the Employer in writing of the employee’s intent to submit to a fitness for duty examination by the employee’s physician, or the existence of a conflicting fitness for duty determination by the employee’s physician, within ten (10) days of receipt of the Employer’s

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physician's fitness for duty report. A copy of the employee's physician's written report on the employee's fitness for duty shall be provided to the Employer. If an employee is deemed unfit for duty by the Employer's physician and the employee does not get a fitness for duty examination as provided for in this Section, or otherwise dispute the Employer's physician's determination that the employee is unfit for duty, the Employer reserves the right to terminate the employee's employment.

Section 49.4 In the event that the Employer's physician's fitness for duty determination conflicts with the employee's physician's fitness for duty determination, the Employer's physician and the employee's physician shall agree upon an independent, third-party physician for a final determination of the employee's fitness for duty. The costs of the third-party physician evaluation shall be paid equally by the Employer and the employee. Any information provided by either party to the third-party physician shall be simultaneously shared with the opposing party. The third-party physician's written report shall be provided to the Employer and the employee simultaneously.

Section 49.5 An employee shall be promptly returned to duty if the employee is evaluated as fit for duty by the third-party physician. If the third-party physician determines the employee is currently not fit for duty the Employer may then place the employee on unpaid administrative leave and the employee may utilize all leave available to him under the Agreement to take the prescribed steps to return to fit for duty status. If the employee exhausts his available leave prior to being cleared to return to duty by the third-party physician, the Employer reserves the right to involuntarily separate the employee for cause.

Section 49.6 The maximum total paid administrative leave for which an employee is eligible to receive under this Article is 720 work hours.

**ARTICLE 50**  
**SUSPENSION IN CASE OF EMERGENCY**

Section 50.1. Waiver. In cases of emergency declared by the President of the United States, the Governor of the State of Ohio, the Executive of the County of Summit, the Mayor or Fire Chief of the City of Fairlawn, or their designees, resulting from acts of God, civil disorder, or otherwise, the terms and conditions of this Agreement shall automatically be suspended.

Section 50.2. Termination of Emergency. Upon the termination of the emergency, valid grievances existing prior to the emergency shall be processed in accordance with the provisions outlined in the grievance procedure and shall proceed from the point in the grievance procedure to which the grievance(s) had properly progressed.

**ARTICLE 51**  
**LABOR-MANAGEMENT COMMITTEE**

Section 51.1. To provide for a means of better communication and understanding between the Union and the Employer, a Labor Management Committee shall be established.

Section 51.2. The Committee will consist of no more than three (3) representatives of the Union and three (3) representatives of the Employer.

Section 51.3. The Committee will meet on a quarterly basis, after a written request from either party, for the purpose of discussing subjects of mutual concern. The Committee may meet more frequently if agreed to by the parties.

Section 51.4. Meetings will be held at a time and place mutually agreed to by the parties and shall not be considered a public meeting.

Section 51.5. At least one (1) week prior to the meeting each party will submit, in writing, specific items and/or issues to be discussed at the Committee meeting.

Section 51.6. Individual grievances will not be a subject for discussion at these meetings.

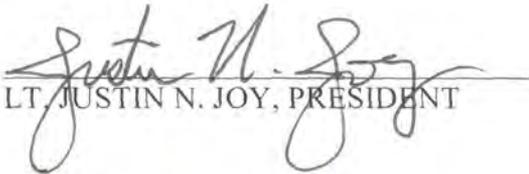
**ARTICLE 52**  
**DURATION OF AGREEMENT**

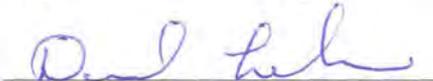
Section 52.1. Duration of Agreement. This Agreement shall be effective as of January 1, 2014 and shall remain in full force and effect through midnight December 31, 2016. Irrespective of any other provision of this Article, the parties shall reopen negotiations solely on the subject of Wages, Article 37, and Insurances, Article 44, to be effective for year 2016. This Agreement shall not be reopened for any other matter. A notice to negotiate for such reopener shall be filed by either party with the State Employment Relations Board no earlier than August 1<sup>st</sup> and no later than October 31<sup>st</sup> of 2015. Negotiations shall be conducted pursuant to Chapter 4117 of the Ohio Revised Code.

Section 52.2. Notice to Negotiate. If either party desires to modify or amend this Agreement, it shall give written notice of such intent no earlier than one hundred twenty (120) calendar days prior to nor later than ninety (90) calendar days prior to the expiration date of this Agreement. Such notice shall be by certified mail with return receipt requested. The parties shall commence negotiations within two (2) calendar weeks upon receiving such notice.

Signed and dated at Fairlawn, Ohio on February 3, 2014.

FAIRLAWN PROFESSIONAL FIRE FIGHTERS,  
IAFF LOCAL 4164:

  
LT JUSTIN N. JOY, PRESIDENT

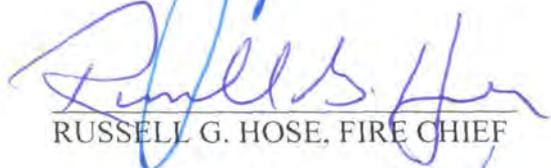
  
DAVID LESHER

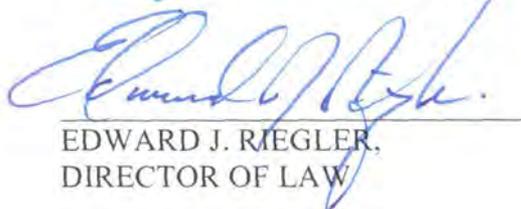
  
STEVEN BRANT

  
RYAN J. LEMMERBROCK,  
ATTORNEY AT LAW

CITY OF FAIRLAWN:

  
WILLIAM J. ROTH, JR., MAYOR

  
RUSSELL G. HOSE, FIRE CHIEF

  
EDWARD J. RIEGLER,  
DIRECTOR OF LAW

  
KEVIN CAMPBELL,  
ATTORNEY AT LAW

Approved by Fairlawn City Council on February 3, 2014 by Ordinance 2014-006