

STATE EMPLOYMENT  
RELATIONS BOARD

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**AGREEMENT BETWEEN**  
**THE CITY OF UPPER ARLINGTON, OHIO**  
**AND**  
**INTERNATIONAL ASSOCIATION OF FIREFIGHTERS,**  
**LOCAL 1521**

**SERB Case No.: 2013-MED-10-1275**

**EFFECTIVE**  
**January 1, 2014 through December 31, 2016**

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**ARTICLE 1**  
**AGREEMENT**

**Section 1.1. Agreement.** This Agreement is made between the City of Upper Arlington, Ohio, hereinafter referred to as the "City" and the International Association of Firefighters, Local 1521, hereinafter referred to as the "Union."

**Section 1.2. Purpose.** This Agreement is made for the purpose of setting forth the understandings and agreements between the parties governing the wages, hours, terms and conditions of employment for those employees included in the bargaining unit as defined herein in the spirit of good faith bargaining.

**Section 1.3. Legal References.**

- A. This Agreement has been negotiated by the parties in accordance with, and is subject to, the specifications and requirements of Chapter 4117 of the Ohio Revised Code.
- B. Should any part of this Agreement be held invalid or temporarily restrained such invalidation or temporary restraints shall not invalidate or affect the application of the remaining portions hereof or persons or circumstances other than those to whom or to which it has been held invalid or has restrained. In the event of invalidation of any portions of this Agreement by a court of competent jurisdiction, and upon written request by either party, the parties to this Agreement shall meet at mutually agreeable times within fourteen (14) days of receipt of the written request in an attempt to modify the invalidated provisions by good faith negotiations. The failure of the parties to agree upon a substitute for the invalidated provisions shall not affect the remainder of this Agreement, which shall remain in full force and effect during the term hereof. The parties shall enter into good faith collective bargaining concerning the effects of any invalidated portions of this Agreement within thirty (30) days of the action implementing invalidation.

**ARTICLE 2**  
**RECOGNITION AND DUES DEDUCTION**

**Section 2.1. Recognition.** The City recognizes The International Association of Firefighters Local 1521, as the sole and exclusive bargaining agent for the purposes of collective bargaining in any and all matters relating to wages, hours, terms and conditions of employment of all members in the bargaining unit. The bargaining unit shall include all sworn firefighters and officers employed by the City below the rank of Deputy Chief.

**Section 2.2. Dues Deductions.**

- A. Pursuant to Section 4117.09(B)(2) of the Revised Code, the City agrees to deduct Union membership dues, initiation fees, and assessments, in the amount certified by the Union to the City, the first and second pay period of each month from the pay of any Union bargaining unit member, upon presentation to the appropriate payroll clerk of a written deduction form signed by the member authorizing the deduction by the Union member.

The City shall be relieved from making individual dues deduction payments to the Union when a member: (1) resigns or is separated from City employment; (2) is laid off from City employment; (3) provides written revocation of dues deduction authorization to both the City and the Union; (4) is on an unpaid leave of absence when the dues deduction would otherwise be due; or (5) at any time when dues are otherwise due, fails to receive sufficient wages to make all legally required deductions in addition to the deduction of Union dues, provided that the member's dues shall thereafter be deducted in the first available pay period in which the member has sufficient wages to make the dues deduction in addition to all legally required deductions.

- B. Each person who is (1) a bargaining unit member on the ratification date of this Agreement or who becomes a member during its term and (2) has completed sixty (60) days of employment shall maintain membership in the Union for the duration of the Agreement or, in lieu thereof, pay a fair share fee by mandatory payroll deduction in accordance with the specification of Section 4117.09(C) of the Ohio Revised Code. Such fair share payments shall be deducted by the City from the earnings of such non-member employee(s) the first and second pay period of each month, and paid to the Union in accordance with this Article. The Secretary/Treasurer of the Union shall certify to the City the amount that constitutes said fair share which shall not exceed the dues and financial obligations uniformly required by members of the Union.
- C. Except as provided in paragraphs (A) and (B) in this section, the Union agrees that the City assumes no obligation, financial or otherwise, arising out of the provisions of the Agreement regarding the deduction of Union dues. The Union hereby agrees that it will indemnify and hold the City and its agents harmless from any claims, actions or proceedings including the defense thereof, by any employee arising from deductions made by the City pursuant to this Article. If requested, the Union shall provide its legal counsel at no cost to the City and/or its agents to defend the City and/or its agents in any claim, action, or proceeding. Once the funds are remitted to the Union each month by the City, their disposition thereafter shall be the sole and exclusive obligation and responsibility of the Union.

**Section 2.3. Grievance.** A bargaining unit member shall not utilize the grievance procedure as set forth in Article 7 of this Agreement to challenge the deduction of the fair share fees.

References to the rank of Battalion Chief are applicable only to the extent that bargaining unit members are employed in that rank. To the extent Battalion Chief position(s) are not filled (and/or the rank is eliminated) the City may assign another designee to perform the duties of that/those Battalion Chief(s).

### **ARTICLE 3** **NON-DISCRIMINATION**

**Section 3.1. Joint Pledge.** Neither the City nor the Union shall unlawfully discriminate against any bargaining unit employee on the basis of age, sex, race, color, creed, religion, ancestry, national origin, handicap, military status, or application for participation in the Ohio Workers' Compensation Program.

**Section 3.2. Gender.** All references to employees in this Agreement designate both sexes, and wherever the male gender is used it shall be construed to include male and female employees.

**Section 3.3. City Pledge.** The City agrees not to interfere with the rights of bargaining unit members to become members of the Union, and the City shall not discriminate, interfere, or coerce any employee because of Union membership or because of or regarding his/her activities as an officer or other representative of the Union.

**Section 3.4. Union Pledge.** The Union agrees not to interfere with the rights of a member to refrain from or resign from membership in the Union, and the Union shall not discriminate, interfere, restrain, or coerce any member for exercising the right to abstain from membership in the Union.

**Section 3.5. Statutory Rights.** This Article shall not be construed as a waiver or forfeiture of any individual member's rights to seek redress for discrimination under any applicable state or federal laws unless specifically set forth in this Agreement.

#### **ARTICLE 4 MANAGEMENT RIGHTS**

**Section 4.1. Rights.** Except – and only to the extent – that specific provisions of this Agreement expressly provide otherwise, it is hereby mutually agreed that the City has and will continue to retain, regardless of the frequency of exercise, rights to operate and manage its affairs in each and every respect. The rights reserved to the sole discretion of the City shall include, but not be limited to the right:

- A. To direct the work of firefighters.
- B. To determine the mission of the Fire Division.
- C. To determine the size and composition of the work force.
- D. To suspend, discipline, or discharge firefighters for just cause.
- E. To relieve firefighters from duty because of lack of work or lack of funds.
- F. To take actions as may be necessary to carry out the mission of the Fire Division in emergencies.
- G. To hire, schedule, promote, demote, transfer, and assign firefighters.
- H. To recruit, select, and determine the qualifications and characteristics of new hires.
- I. To schedule or not schedule overtime as required in the manner most advantageous to the requirements of efficient governmental operations.
- J. To train or retrain firefighters as appropriate.

- K. To set standards for service to be offered to the public.
- L. To establish, modify, combine, or abolish job positions and classifications.
- M. To create, modify, or delete divisional rules and regulations; except as such changes may conflict with this Agreement.

**Section 4.2. Rights Limitations.** The exercise of the foregoing powers, rights, authority, duties and responsibilities, the adoption of reasonable policies, rules, and regulations and practices in furtherance thereof, and the use of judgment and discretion in connection therewith shall not be in any way precluded; rather the provisions of section 4.1 shall be liberally construed to grant the City full reserved rights to act, which rights shall be limited only by the specific and express terms of this Agreement.

## **ARTICLE 5** **UNION ACTIVITIES**

**Section 5.1. Ballot Boxes.** The Union shall be permitted, with prior notification to the Fire Chief, to place ballot boxes in the Fire Stations for the purpose of collecting members' ballots on all Union issues subjected to ballots. Such boxes shall be the property of the Union and neither the ballot boxes nor the ballots shall be subjected to the City's review.

**Section 5.2. Bulletin Boards.** The Union shall be permitted to use bulletin boards in the Fire Stations and the Fire Office for the purpose of posting notices concerning Union business.

**Section 5.3. Union Officials Roster.** The Union shall provide to the City an official roster of its bargaining unit members who are or become officers and representatives within thirty (30) days of any change, and will include the following:

- Name
- Address
- Telephone
- Union Office Held

Except as may be required by Ohio Revised Code 149.43, the City agrees that this roster shall not be made available to the public by the City, that only City employees with a legitimate need to know shall have access to the roster, and that unlisted home telephone numbers will not be shared with anyone outside the City. The City will not make this roster available to the public except pursuant to a request properly made under Ohio Revised Code 149.43.

**Section 5.4. Use of Interdivisional Mails and E-Mail System.** The Union shall be permitted, to the extent of the law, reasonable use of the interdivisional mail system and the City's e-mail system for the direct distribution of information pertaining to collective bargaining, contract administration and other similar business germane to the Union's role as exclusive representative of the bargaining unit. The Union shall observe the requirements of this provision and established divisional procedures for the distribution of all such material. The Union's use of the interdivisional mail system shall not be subject to the City's review, and the Union shall continue

to have the use of the internal city mail system to the extent of the law to conduct Union business outside the Division. The Union's use of the City's e-mail system is subject to the City's IT policy as in effect or as amended during the term of this Agreement. There is no expectation of privacy attached to the Union's use of the e-mail system.

**Section 5.5. Union Business.** The Union President, or his/her designees, shall be permitted a reasonable amount of time to transact official Union business at divisional work sites, provided that normal divisional operations shall not thereby be interfered with or interrupted. Union members' attendance at board meetings, as delegates to Union conferences, work sessions of Union negotiations, and funeral representation shall be permitted provided that such attendance does not interfere with emergency fire duties or maintaining minimum manpower standards and is not conducted on City-paid overtime hours.

**Section 5.6. Union Time & Union Trade-Time.** Union Time may be granted by the Chief or his/her designee providing the maximum of three (3) members are not scheduled off on vacation or prescheduled holiday time, personal time, compensatory time, or prescheduled training time. Once granted, Union Time off shall count as one of the three persons off at any given time. Should Union Time be unavailable, the City will continue to allow the practice of Union Trade Time. Members who have worked Union Trade Time shall be permitted to take this time off provided the maximum of three (3) members are not scheduled off on vacation or prescheduled holiday time personal time, compensatory time, or pre-scheduled training time. Union Trade Time shall be taken off in minimum of three (3) hour increments unless the total time owed the member is less than three (3) hours.

**Section 5.7. Union Meetings.** The Union may be permitted, upon verbal request to the Fire Chief or his/her designee, to hold meetings for Union members at any Fire Station. The notification required under this Section shall be delivered to the Chief, or his/her designee, at least forty-eight (48) hours prior to the time for the requested meeting and shall state the date, time, and requested location, and purpose of the meeting. Approval shall not be unreasonably withheld; however, it is understood that Fire Stations with public meeting rooms shall be primarily reserved for public use over Union business. Upon approval of the Fire Chief, the Union will be permitted to use the requested location on the date and at the time specified in the Union request provided the location is not otherwise in use. In the event that unexpected events arise during the forty-eight (48) hour notice period, then approval may be revoked by the Fire Chief. It is understood that such revocation shall be for matters of emergency activities or meetings, and not arbitrary pre-emption. The City will give reasonable notice to the Union of the revocation, if possible.

**Section 5.8. Personnel Actions.** Upon request in writing, the Union shall receive copies of all personnel actions pertaining to bargaining unit members relating to disciplinary actions, new hires, retirements, transfers, promotions, and demotions.

## **ARTICLE 6**

### **LABOR RELATIONS TEAM**

**Section 6.1. Purpose.** The parties recognize that certain subjects may be of concern either to the Union or the City even though such topics are not appropriate subjects of collective

bargaining or are not resolvable through the grievance procedure or the Municipal Civil Service Commission. Therefore, a Labor Relations Team is established for the purposes of full discussion, exploration and study of subjects referred to it by the Union and the City.

**Section 6.2. Labor Relations Team & Meetings.**

- A. There shall be a Labor Relations Team consisting of no more than three (3) Union representatives and no more than three (3) City representatives. The Team shall meet on request of either party to discuss all matters of mutual concern, but no party has a duty to agree to any suggestion. The Team shall have the authority to make recommendations to the Union and City. The parties intend this Team to be advisory only. Negotiations or collective bargaining over matters covered by the current Agreement shall not occur at these meetings.
- B. Labor Relations Team meetings shall be scheduled at least quarterly at reasonable, mutually convenient times, and shall be closed to the public. Persons who are specialists in the subject matter under discussion may be brought into Labor Relations Team Meetings by the mutual agreement of the Parties. It is not the intent of the parties that Labor Relations Team meetings be used to bypass the normal chain of command, and the bargaining unit members are expected to attempt to work out matters with lower level supervisors before raising them at Labor Relations Team meetings.

**Section 6.3. Agenda.** An agenda will be prepared by mutual consent when necessary. There shall be no publication of the Team agenda or release of the information concerning the Labor Relations Team's deliberations or recommendations without the advance approval of both the Union President and the Fire Chief, or his/her designee.

**Section 6.4. Authority.** The Labor Relations Team shall have no authority to collectively bargain for either party or to modify, add to or delete from the provisions of this Agreement.

**ARTICLE 7**  
**GRIEVANCE PROCEDURE**

**Section 7.1. Definition.** A "grievance" is an allegation by one or more employees that there has been a breach, misinterpretation, or improper application of this Agreement. It is not intended that the grievance procedure be used to effect changes in this Agreement, nor in those matters not covered in this Agreement.

**Section 7.2. Qualifications.** A grievance can be initiated by the Union or an aggrieved bargaining unit member. Where a group of bargaining unit members desire to file a grievance involving a situation affecting each bargaining unit member in the same manner, one bargaining unit member selected by such group shall process the grievance as the designated representative of the group.

**Section 7.3. Establishment of Grievance Representatives.** The Union will designate not more than four (4) Grievance Representatives with one (1) Grievance Representative for each Fire Unit (Shift), and one Grievance Representative for the 40 hour staff, who shall represent the

member in investigating and processing grievances beginning at Step Two of this procedure. One member of the bargaining unit shall serve as the Grievance Chairman. None of the duties of the Grievance Representatives herein described may be conducted on City-paid overtime hours.

**Section 7.4. Duties of Grievance Chairman.** The authorized functions of the Grievance Chairman, and named alternate who shall serve as Grievance Chairman in the absence or unavailability of the Grievance Chairman, shall include the following:

- A. Replacing a Grievance Representative who is absent or unavailable.
- B. General Coordination of grievances, supervision and training of Grievance Representatives.
- C. Act as liaison between the Administration and the Union on matters concerning grievances and this Procedure.
- D. Assist the Union officials and the Administration on matters concerning this Agreement.

The Grievance Chairman shall be released from his/her normal duty hours, upon approval of his/her supervisor, to participate in the aforementioned duties without loss of pay or benefits. Such approval will not be unreasonably withheld, and the withholding of such approval shall result in an automatic, equivalent extension of time limits within which a grievant must appeal his/her grievance or have it heard. The Grievance Chairman shall be allowed sufficient time during his/her scheduled working hours to perform the aforementioned duties. He/She will be required to drop or forgo any of the activities allowed by this Section for the purpose of assisting in emergency fire work. None of the duties of the Chairman herein described may be conducted on City-paid overtime hours.

**Section 7.5. Jurisdiction.**

- A. Nothing in this grievance procedure shall deny a member, group of members, or the Union any rights available at law to achieve redress of legal rights before a forum (court or agency) independent of this Agreement. However, once an election is made to pursue a matter before a forum independent of this Agreement, and said forum either takes jurisdiction over said matter or dismisses the appeal or claim filed therein for lack of jurisdiction due to an untimely filing, a member, group of members, or the Union is thereafter precluded from seeking a remedy under this grievance procedure to the extent an election of remedies is not prohibited by law.
- B. If jurisdiction by the elected forum is denied for any other reason except timeliness, the matter may be thereupon presented as a grievance if it meets the grievance definition and is filed within seven (7) working days of the denial of jurisdiction. Workers' compensation claims and unemployment claims are not subject to processing under this grievance procedure.

**Section 7.6. Grievance Procedure.** It is the mutual desire of the City and the Union to provide for prompt adjustment of grievances, with a minimum amount of interruption of the work

schedules. Every responsible effort shall be made by the City and the Union to effect the resolution of grievances at the earliest possible step. In furtherance of this objective, the following procedure shall be followed:

- A. Step 1 – Informal. Non-supervisory members having an individual grievance shall orally present the grievance to their immediate supervisor. Supervisory members will first attempt to resolve an individual grievance informally with their supervising Battalion Chief or Captain serving as a Shift Commander. Such attempt at informal resolution shall be made by the Grievant within seven (7) of the member's working days after the events occurred, unless the Grievant can show that due to reasons beyond his/her control, it was impossible to comply with this time requirement. Grievances brought to the attention of the appropriate supervisor in each case (except for automatic time extensions as hereinafter described in Section 7.8.) beyond the seven (7) working day time limit shall not be considered. The immediate supervisor will respond informally within seven (7) of his/her work days. At this Step, upon request of the grievant, a representative of the Bargaining Unit may represent the grievant and be present at the informal meeting. Before a grievance is placed in writing pursuant to Step 2 such grievance shall be screened by the Grievance chairman or appropriate representative.
  
- B. Step 2 – Battalion Chief. If the grievance is not resolved in Step 1 and the grievant wishes to proceed to Step 2, he/she shall reduce the grievance to writing as prescribed in Section 7.9 and shall within seven (7) of the grievant's working days of the oral response at Step 1 present the written grievance form to the Battalion Chief. The Battalion Chief shall date the form, and investigate and respond in writing to the grievant within seven (7) of the Battalion Chief's working days following the presentation of the grievance to Step 2. In case there is no Battalion Chief available in the chain of command, the grievant will proceed to Step 3.
  
- C. Step 3 – Fire Chief.
  1. If the grievance is not resolved in Step 2 and the grievant wishes to proceed to Step 3, he/she shall present the written grievance form, the Battalion Chief's response, and any other pertinent documents, to the Fire Chief within seven (7) of the grievant's working days from the receipt of the Step 2 response from the Battalion Chief. The Fire Chief shall date the grievance form accurately showing the date his/her office received the form and investigate the grievance.
  
  2. Within ten (10) of his/her working days of his/her receipt of the grievance form, the Fire Chief shall schedule and conduct a meeting to discuss the grievance with the Grievance chairman. The Chief may reconvene this meeting a second time within five (5) days of the initial meeting if he/she needs additional information or documentation regarding the grievance.
  
  3. The Grievance Chairman may bring with him/her to the meeting the grievant, the Grievance Representative, and such others that are directly involved in the grievance or grievance procedure up to this Step. The City shall not incur any overtime expense as a result of this provision.

4. Within ten (10) of his/her working days from the date of the final meeting, the Chief shall submit his/her written response to the Grievance Chairman and to the grievant.

D. Step 4 – City Manager.

1. If the grievance is not resolved in Step 3 and the grievant wishes to proceed to Step 4, he/she shall, with the approval of the Grievance Chairman, present the written grievance to the City Manager or his/her designee within seven (7) of the grievant's working days from the receipt of the Step 3 response and request the grievance to be heard before the City Manager.
2. Within fourteen (14) calendar days of receipt of the request, the City Manager shall schedule and conduct a meeting to discuss the grievance with the Fire Chief, the Grievance Chairman, and the grievant, and at the City's option the City Attorney or other representative of the City Manager, and at the Union's option the Union's Counsel. Within seven (7) days of the meeting of this Step, the City Manager shall give his/her written decision to the Fire Chief, the Grievance Chairman and the grievant. The City shall not incur any overtime expense as a result of this provision.
3. If a grievance is resolved in Step 4, implementation will take place as mutually agreed by the parties. If a grievance is not satisfactorily resolved at Step 4, the grievant and the Union President may submit a request to arbitrate the grievance to the City Manager or his/her designee within thirty (30) calendar days following the date of the response outlined in step 4. Failure to request arbitration in a timely manner shall render the grievance withdrawn.

E. Step 5 – Binding Arbitration Panel.

1. A request to arbitrate a grievance involving a removal action against a member shall be submitted to a single arbitrator. The single arbitrator shall be selected as follows. The City Manager, or designee, and the Union President, or designee, each shall request the State Employment Relations Board (SERB) to submit a list of seven (7) arbitrators (with offices in Ohio) from which the City and Union shall select one (1) by mutual agreement. If an agreement cannot be reached as to one (1) mutually acceptable arbitrator from the list, an arbitrator will then be selected by the parties alternately striking names and selecting the final remaining name as arbitrator.
2. A request to arbitrate a grievance involving any matter other than a removal action shall be submitted to an arbitration panel. The arbitration panel shall be selected as follows. After receipt of a request to arbitrate the grievance from the Union President and the grievant, the City Manager, or his/her designee, and the Union President, or his/her designee, each shall choose one (1) member of the Arbitration Panel.

The Panel shall be composed of the two (2) chosen members, who are residents of Upper Arlington and possess knowledge of labor relations, and a member chosen by the two (2) panel members who is a qualified arbitrator and who shall be Chairman of the Panel. If the two (2) members cannot agree upon a third member within five (5) work days after their appointments, the arbitrator shall be chosen from a list of seven (7) arbitrators supplied by SERB. The parties shall jointly request the list. A party who orders a list that is not jointly requested shall pay the entire cost of that list. The parties shall strike the names from the SERB list until there remains only one name, who shall be the arbitrator and chair the panel. The parties shall flip a coin to determine which party strikes first.

No member of the panel shall be an employee, official or member of any Board or Commission of the City, a member or representative of the Union, or a member of the immediate family of household of any such persons. The parties shall establish a mutually agreeable date and time for the hearing.

3. The Panel or Arbitrator shall limit their/his/her decision strictly to the interpretation, application, or enforcement of the specific provisions of the Agreement. The Panel or Arbitrator may not modify or amend the Agreement. The question of arbitrability of a grievance may be raised by either party before the arbitration hearing on the grievance, on the grounds that the matter is nonarbitrable or beyond the Panel's or Arbitrator's jurisdiction. A majority vote of the Panel or Arbitrator decides the grievance, and the decision of the Panel or Arbitrator shall be final and binding, subject only to appeal under Chapter 2711 of the Ohio Revised Code. The Panel or Arbitrator shall be without authority to recommend any right of relief on any alleged grievance occurring at any other time than the contract period in which the right originated. The Panel or Arbitrator shall not establish any new or different wage rates not negotiated as part of this Agreement.
4. Both the Union and the City shall share equally in the cost of the arbitration proceedings. Each party shall be responsible for compensating its own panel member and its own representative and witnesses. The cost of a transcript shall be shared if the necessity of a transcript is mutually agreed upon between the parties. Employee witnesses shall be allowed release time with pay for the purpose of giving testimony if the hearing is held during an employee's work time and advance notice has been given to the City's representative. Employee witnesses may be required to forego testifying for the purpose of assisting in emergency fire work. The City shall not incur any overtime expense as a result of this provision.
5. The Panel or Arbitrator shall submit in writing their/his/her findings and award to the City Manager and to the Union President within thirty (30) days after the hearing record is closed, unless the parties mutually agree to an extension thereof.

**Section 7.7. Time Limits.** It is the City's and the Union's intention that all time limits in the above grievance procedure shall be met. To the end of encouraging thoughtful responses at each

Step, however, the Union's and City's designated representatives may mutually agree, at any Step, to short time extensions for the City's answer, but any such agreement must be in writing and signed by both parties. In the absence of such mutual extensions, the grievant may, at any step where a response is not forthcoming within the specified time limits, advance the grievance to the next Step. Any Step in the Grievance Procedure may be skipped on any grievances by mutual consent. A grievance may be processed through the chain of command whose actions gave rise to the grievance, if different than that of the grievant.

**Section 7.8. Representatives in Meetings.** In each Step of the grievance procedure outlined in Section 7.6, certain specific representatives are given approval to attend the meetings therein prescribed. It is expected that, in the usual grievance, these will be the only representatives in attendance at such meetings. However, it is understood by the parties that, in the interest of resolving grievances at the earliest possible Step of the grievance procedure, it may be beneficial that other representatives, not specifically designated, be in attendance. Therefore, it is intended that either party may bring in additional representatives to any meeting in the grievance procedure, but only upon advance mutual agreement among the parties specifically designated to attend that such additional representative or representatives has input which may be beneficial in attempting to bring resolution to the grievance.

**Section 7.9. Grievance Form.** The aggrieved member shall use a written grievance form provided by the City which shall provide the following information:

- A. Grievant's name and signature.
- B. Date, time, and location of Grievance.
- C. Description of incident giving rise to the grievance.
- D. Article or Section of the Agreement violated.
- E. Date grievance was first discussed and with whom discussed.
- F. Name of supervisor with whom grievance was first discussed.
- G. Date grievance was filed in writing.
- H. Desired remedy to address or resolve grievance.

The Union shall have the responsibility for duplication and distribution of, and its own accounting for, the grievance forms. This form may also be used for official business of the Fire Division.

**Section 7.10. Working Days.** For the purpose of counting time, "working days," as used in this Article, will not include scheduled days off, approved leaves, or holidays.

**Section 7.11. Non-Discrimination.** No member or official of the Union shall be removed, disciplined, harassed or discriminated against because he/she has filed or pursued a grievance under these procedures.

## **ARTICLE 8** **CORRECTIVE ACTION AND RECORDS**

### **Section 8.1. Just Cause for Discipline.**

- A. A bargaining unit member who has completed his/her initial probationary period shall be disciplined only for just cause. During the one-year probationary period, bargaining unit members may be removed without a showing of cause.
- B. The City will ordinarily use the following system of progressive discipline for the same or related offenses: oral reprimand, followed by written reprimand, followed by suspension, followed by reduction in compensation or rank or by removal. The City may deviate from this progression for any serious job-related misconduct or any serious criminal misconduct, including such off-duty conduct.
- C. Nothing herein precludes the City from utilizing positive steps, including counseling, to correct a member's inappropriate conduct, action, or behavior.

### **Section 8.2. Disciplinary Hearings.**

- A. Prior to any internal investigation questioning, a member under investigation shall be informed, to the extent known at the time, of the nature of the investigation and shall be provided with a copy of any citizen complaint or a written summary of the basic facts of any complaint against the member. This paragraph shall not apply to any criminal investigation.

An anonymous complaint alleging non-criminal inappropriate conduct by a Bargaining Unit Member shall be subjected to investigation only if corroborative evidence can be obtained. If no such corroborative evidence exists, the complaint shall be classified as unfounded and the accused member shall not be required to submit a written report regarding the allegation. This does not preclude constructive discussion between a Member and his supervisor.

Upon completion of an investigation, the Fire Chief will review the investigation to determine if the allegations will proceed to a Fire Chief's Hearing. Prior to any suspension and/or recommendation for reduction in compensation or rank, or removal, a bargaining unit member shall be given such a hearing before the Fire Chief. The bargaining unit member will be provided with a written notice of said hearing, the specific allegations made against the bargaining unit member, an explanation of the evidence, a copy of any documents or tangible items related to the allegations upon the member's request, and a reasonable opportunity to respond to the allegations either verbally or in writing. The member may also choose to have Union representation at the Fire Chief's hearing. The Fire Chief may exonerate the member, require counseling or

training, issue an oral or written reprimand, suspend the member with or without pay, and/or recommend a reduction in compensation or rank; or removal.

- B. If a bargaining unit member is suspended by the Fire Chief, and/or a recommendation is made by the Fire Chief for reduction in compensation or rank, or removal, the member may request a City Manager hearing. The Fire Chief shall certify in writing the cause for said suspension, reduction, and/or removal to the City Manager who, within five (5) calendar days from his/her receipt thereof, shall proceed to inquire into the cause of such suspension, reduction and/or removal and render a judgment, which if the charge is sustained, may result in a judgment to uphold the original action to suspend, and/or recommendation to reduce or remove, or include, but not be limited to an additional suspension, reduction in rank, and/or dismissal from the Division. The parties may extend the five (5) day time limit by mutual agreement. The Fire Chief will give the member a written explanation of the reasons for the disciplinary action prior to the hearing before the City Manager. At that hearing the member shall have the right to be represented by the Union, to present evidence on his/her behalf and to question adverse witnesses. The City shall record the hearing and provide, upon request a copy of the recording to the member or his/her counsel at actual cost, unless the member and the City mutually agree that a record is unnecessary.
- C. When any discussion with any member under investigation may result in the initiation of disciplinary action against the member, the initiator is required to advise the member prior to the beginning of the discussion that the member may request the presence of a Union representative. The right to Union representation is not required when the discussion is strictly between a superior officer and the member, and it is not conducted for the purpose of taking or announcing disciplinary action. However, when in the course of such discussion, it becomes apparent to the superior officer that disciplinary action could result, the superior officer is required to advise the member that the member may request the presence of a Union representative before the discussion continues.
- D. If the City Manager's or Fire Chief's decision is to impose a suspension of forty-eight (48) hours or less for a fifty-six (56) hour member or forty (40) hours or less for a forty (40) hour member, the City Manager or Fire Chief may, at her/his sole discretion, offer the member the opportunity to forfeit a like number of hours of paid leave (other than sick or injury leave), in lieu of serving the suspension. If the member has insufficient leave available, this option is not available. If the member accepts this opportunity, the leave forfeiture shall be recorded as a suspension, but the affected member shall not serve any suspension.

**Section 8.3. Appeal.** Written reprimands, suspensions, reductions in rank or compensation and removals may be appealed directly to arbitration within 30 days of the effective date of the discipline/removal by the grievant and the Union President as provided in Article 7, Section 7.6(D)(3). Oral reprimands may not be appealed through the Grievance Procedure or arbitration as specified in Article 7, Section 7.6 in this Agreement.

#### **Section 8.4. Records.**

A. Coverage. The provisions in this Section shall apply to the official personnel file maintained by the City for each member of the bargaining unit. Only one official file shall be maintained; however, these provisions do not apply to internal affairs files. Only records contained in the official personnel file shall be considered for personnel actions such as disciplinary actions or promotions, but information in the archive personnel file may be used to show notice.

B. Inspection and Complaints.

1. Records of formal disciplinary action shall be maintained in the member's personnel file in accordance with Chapter 1347 of the Ohio Revised Code. Any member or his/her authorized representative shall have the right to inspect his/her personnel file in accordance with Section 1347.08 of the Ohio Revised Code. A member may obtain copies of materials in his/her file. The City may establish a reasonable copying charge for such material.
2. Upon written request of the member to the Chief, oral and written reprimands ordinarily shall be removed from a member's official personnel file after two (2) years, suspensions of fewer than thirty (30) days ordinarily shall be removed after three (3) years. These retention guidelines shall not apply if the Chief or City Manager has taken the same or similar corrective action against the member within the guideline periods.

Likewise, the Chief may determine it is necessary to retain the material for longer periods of time based upon the particular facts and circumstances, including the nature of the offense and the member's overall work record since he/she was disciplined. Suspensions of thirty (30) days or more, reductions in compensation or rank or removals shall be expunged only if such action is subsequently disaffirmed. These retention guidelines shall apply retroactive to disciplinary records in a member's file. Records removed from the official personnel file pursuant to this Section shall be treated in the manner provided by the rules of the City's Records Commission.

3. A member may dispute any information in his/her file by placing a letter in his/her file setting forth the basis of his/her objection. Any complaint concerning the accuracy, timeliness, relevance or completeness of information in a member's file shall be processed in accordance with Section 1347.09 of the Ohio Revised Code and shall not be subject to the Grievance Procedure in this Agreement.

C. Restriction of Access to Records. City supervisory and administrative personnel, City legal counsel and their authorized clerical personnel, shall have access to personnel files only when necessary in the performance of their official duties. The Civil Service Commission, the Arbitrator or Arbitration Panel, and courts of competent jurisdiction which have subpoenaed them shall also have access to personnel files. Except as required or authorized by Section 149.43 of the Ohio Revised Code, no materials shall be

released from personnel files to persons other than authorized department or City administration personnel. When practicable, the City shall give the member notice that a public records request has been made for information from a member's personnel file.

- D. Use of Records. If a personnel action is based in whole or in part on written personnel records, only material contained in the official personnel file shall be considered.
- E. Placement of Material in Personnel File. A member shall be provided at no cost, a copy of any document or material placed in his/her personnel file at the time of placement therein, unless the document or material originates from the member.
- F. Copies of all disciplinary actions against members that are to be made a matter of public record shall be forwarded promptly to the Union President.

## **ARTICLE 9**

### **WORK RULES AND DIRECTIVES**

**Section 9.1. Work Rules and Directives.** The City retains the right to create, modify or delete the written Divisional Standard Operating Procedures (SOP) Manual, including but not limited to all written work directives. The City shall provide the Grievance Chairman with a copy of any change in any existing written rules, regulations or directives which are applicable to bargaining unit members.

**Section 9.2. Members Copy of Work Rules and SOP.** Each member shall be provided a complete and current paper copy of the Work Rules and SOP Manual within thirty (30) calendar days of beginning employment with the City.

Each member's copy of these Work Rules and SOP will be updated to be current on a bi-annual basis.

The City may provide the update copies of work rules, directives, or SOP's in either hard copy or electronic copy or both, at the City's option.

## **ARTICLE 10**

### **CONTRACTING OUT**

**Section 10.1. Understanding.** The City agrees that during the term of this Agreement that it will not enter into contract with anyone other than the Union (Local 1521) to provide firefighting, emergency medical or paramedic services for the City of Upper Arlington, except under the following circumstances:

- A. The City may without restriction enter into contract(s) with other political subdivisions to provide firefighting, emergency medical and paramedic services for the City of Upper Arlington in the form of mutual aid agreements or the following shared services: pooling of equipment and training. Notwithstanding the foregoing, it is understood that the City may, and intends to, engage in the study of future shared services.

- B. The City may, as reasonably necessary, enter into contract(s) with any person to provide firefighting, emergency medical and paramedic services for the City of Upper Arlington during the course of any bona fide emergency during which manpower levels fall below safe levels as determined by the Chief or his/her designee due to injury, illness or death of bargaining unit members. Such contracts may not extend beyond the time reasonably necessary to replace lost manpower through the prescribed Civil Service Procedure. At the Union's request, after the emergency (or earlier if the Chief deems it prudent), the Chief shall meet and confer with the Union about the contractual arrangement; with the understanding that the meet and confer provision in no way prevents the City from entering into the contract for services.

## **ARTICLE 11** **SAFETY & HEALTH**

**Section 11.1. Purpose.** The City will furnish and maintain in the best possible working conditions, the necessary tools, facilities, vehicles, supplies, and equipment required for members to safely carry out their duties. Members are responsible for reporting unsafe conditions or practices to their immediate supervisors, for avoiding negligence, and for properly using, and caring for tools, facilities, vehicles, supplies and equipment provided by the City.

### **Section 11.2. Safety & Health Team and Meetings.**

- A. There shall be a Safety and Health Team consisting of three (3) members appointed by the Union President and three (3) members appointed by the Fire Chief or his/her designee, to include the Fire Division Safety Officer. The Committee shall meet on request of either party to discuss all safety and health matters of mutual concern, but neither party has a duty to agree to any suggestion. The Committee shall have the authority to make recommendations to the Union and the City. The parties intend this Committee to be advisory only. Negotiations or collective bargaining over safety and health matters covered by the current Agreement shall not occur at these meetings.
- B. Safety and Health Team meetings shall be scheduled by the Fire Division Safety Officer at least quarterly at reasonable, mutually convenient times, and shall be closed to the public. Persons who are specialists in the subject matter under discussion may be brought into Safety and Health Team meetings by the mutual agreement of the parties. It is not the intent of the parties that the Safety and Health Team meetings be used to bypass the normal chain of command, and the bargaining unit members are expected to attempt to work out matters with lower level supervisors before raising them at Safety and Health Team meetings.
- C. The Safety and Health Team will include NFPA 1500 as one of the guidelines in making recommendations for improvement to the City.

**ARTICLE 12**  
**MISCELLANEOUS PROVISIONS**

**Section 12.1. Agreement Copies.** As soon as is possible following the signing of this Agreement, the City and the Union shall have printed one hundred (100) copies of this Agreement. Twenty-five (25) copies shall be provided to the City and the remainder shall be provided to the Union. Actual cost of printing this Agreement, and any future printing beyond the initial one hundred (100) copies in an amount the parties may later agree is necessary, shall be shared equally by the City and the Union. The Union shall be responsible for distributing copies to bargaining unit members including copies to any new bargaining unit members who are hired during the life of this Agreement.

**Section 12.2. No Strike/No Lockout.** Neither the Union nor any member of the bargaining unit shall at any time engage in, call, authorize, or ratify any strike, as defined in Section 4117.01(H) of the Revised Code, nor shall the City engage in a lock out as described in Section 4117.11(A)(7) of the Revised Code.

**Section 12.3. Promotions.**

- A. The promotional testing process for all Lieutenant candidates shall consist of four (4) phases. This process will determine the promotional list for Lieutenant.
1. The first phase shall consist of a written test either by or consistent with the Ohio Fire Chief's Association or another testing service approved by the Employer. It shall account for forty percent (40%) of a candidate's raw score. Candidates must pass the written exam with a score of at least seventy percent (70%) before proceeding to the next three (3) phases.
  2. The second phase shall consist of an assessment center. This phase shall account for forty percent (40%) of a candidate's raw score.
  3. The third phase shall consist of an oral review board. This phase shall account for twenty percent (20%) of a candidate's raw score.
  4. The fourth phase shall consist of the addition of seniority points to the candidate's raw score, so as to achieve the final score. Lieutenant candidates must complete the first three (3) phases of this process with a minimum overall passing score of seventy percent (70%) before the addition of seniority points. The formula for seniority points shall be consistent with current civil service rules.
- B. The promotional testing process for all Captain and Battalion Chief candidates shall consist of three (3) phases. This process will determine the promotional list for these two (2) ranks.
1. The first phase shall consist of a written test either by or consistent with The Ohio Fire Chief's Association or another testing service approved by the Employer. It shall account for sixty percent (60%) of a candidate's raw score. Candidates must

pass the written exam with a score of at least seventy percent (70%) before proceeding to the final two phases.

2. The second phase for Captain and Battalion Chief candidates shall consist of an oral review board and/or an assessment center. This phase shall account for forty percent (40%) of a candidate's raw score.
  3. The third phase for Captain and Battalion Chief candidates shall consist of the addition of seniority points to the candidate's raw score, so as to achieve a final score. Captain and Battalion Chief candidates must complete the first two (2) phases of this process with a minimum overall passing score of seventy percent (70%) before the addition of seniority points. The formula for seniority points shall be consistent with current civil service rules.
- C. The final results of this promotional process will be a list certified by the City of Upper Arlington Civil Service Commission. This list will then assist the fire administration, who shall use the "rule of three" in choosing the most appropriate candidate. This "rule of three" shall be waived only in the event that there are but one or two remaining candidates on the final list.
- D. The jurisdiction for this promotional process, including review and approval of testing materials and methods, scheduling and/or approving testing dates and sites, appeal process for all phases, and final ranking will be the Upper Arlington Civil Service Commission.
- E. In accordance with civil service rules the City shall maintain a current eligibility list for promotions.
- F. The City has the right to abolish and/or not fill vacant positions without having to fill them first.

#### **Section 12.4. Transfers.**

- A. For purposes of this Section, a "vacancy" shall be defined as an opening in a permanent, full time position within a unit or in a bureau of a specified Bargaining Unit classification covered by this Agreement, which the City intends to fill, but which does not involve a change of classification or rank.
- B. Whenever a vacancy occurs for a full time assignment, the Division shall post the job assignment opening for ten (10) days and shall allow any interested member within the same classification who meets the necessary qualifications to apply within this period of time. Such applications shall receive consideration for the posted assignment.
- C. Whenever a member will be transferred to a new position, the City will provide reasonable notice to the member prior to the effective date of the transfer. For purposes of this Section, reasonable notice shall ordinarily be fifteen (15) days unless the City due to

an emergency or unanticipated personnel problem needs to fill a position within a shorter period of time.

**Section 12.5. Layoffs and Recall.** Layoff, job abolishment and recalls of members shall comply with the applicable procedures and requirements of Chapter 124 of the Ohio Revised Code. Any appeal from layoff or a job abolishment shall be taken solely to the Municipal Civil Service Commission, and is not a grievable matter under the grievance procedure of this Agreement.

### **ARTICLE 13** **DEFINITION OF COMPENSATION PLAN**

**Section 13.1. Compensation Schedule.** The pay of members shall be on the basis of appropriate schedules of hourly, biweekly, or monthly salary rates for the respective grades for each class of position codes. The schedule of pay ranges and steps, as shown in Article 14, comprise the compensation plan and the hourly rates set forth therein.

**Section 13.2. Full-Time Salary Basis of Compensation Schedules.** The rates of pay prescribed herein are based on full-time employment at normal working hours for the respective classes of position codes. All members shall be paid on the schedule of rates prescribed in Article 14 and Exhibit A for their respective classes of position codes, and designated hourly rate positions shall be paid on the schedule of hourly rates prescribed therefor.

**Section 13.3. Adoption of a Classification and Compensation Plan.** The classification and compensation plan, with pay grades for members is hereby adopted consisting of the following class titles and grades:

<u>CLASS TITLE</u>	<u>GRADE</u>
Firefighter	200
Lieutenant	201
Captain	202
Battalion Chief*	203

\*The use of the Battalion Chief class title and compensation level shall continue to apply until the rank is eliminated in accordance with the Memorandum of Understanding dated February 10, 2014. Any Captains filling in for absent or retired, deceased, or otherwise separated Battalion Chiefs shall do so as acting Battalion Chiefs. After the end of the pay period wherein the rank of Battalion Chief as referenced in the MOU (Section 1) is eliminated, acting Battalion Chief rank and pay will no longer apply; however, the base pay rate for a Captain shall be increased by five percent (5.00%).

**Section 13.4. Direct Deposit.** The City shall provide a direct deposit program. All members shall be required to participate in the direct deposit program.

**ARTICLE 14**  
**RATES OF PAY / WAGES**

**Section 14.1. Rates of Pay.** The following pay rates shall be paid to members beginning on the first day of the pay period that follows the dates specified in Exhibit A:

General increases:

January 1, 2014 [increase the 2013 scale by one percent (1%) and insert here, with adjustments for the pension swap noted below] as shown in Exhibit A.

January 1, 2015 [increase the 2014 scale by two and one-half percent (2.50%) and insert here, with adjustments for the pension swap noted below] as shown in Exhibit A.

January 1, 2016 [increase the 2015 scale by percent (2.50%), or two and three-quarters percent (2.75%) and insert here as stated in the MOU, with adjustments for the pension swaps noted below] as shown in Exhibit A.

Captain Rate – As indicated in Section 13.3, beginning after the end of the pay period wherein the rank of Battalion Chief is eliminated, the base pay rate for the rank of Captain shall be increased by five percent (5%). [A separate scale reflecting the five percent (5%) increase in the Captain's base pay rate will be inserted here] as shown in Exhibit A.

Pension Swap Increases: See Exhibit A.

Effective the date the OPFPF pickup being paid by the City to OPFPF for the bargaining unit employees is reduced from ten percent (10%) to eight percent (8%), the pay scale shall be increased by two percent (2%). That date shall be the beginning of the first full pay period following ratification of this Agreement and passage of the Ordinance as required by OPFPF. See Section 14.6 herein. It is understood that Exhibit A which includes the pension swap will not have the swap occurring on January 1, 2014, and the numbers reflected are based on when the City is authorized to execute the pension swap. There will be no retroactive pay for purposes of the pension swap.

Effective the date the OPFPF pickup being paid by the City to OPFPF for the bargaining unit employees is reduced from eight percent (8%) to six percent (6%), the pay scale shall be increased by two percent (2%). That date shall be the beginning of the pay period that follows January 1, 2015 (first full payroll period in 2015). See Section 14.6 herein.

Effective the date the OPFPF pickup being paid by the City to OPFPF for the bargaining unit employees is reduced from six percent (6%) to four percent (4%) the pay scale shall be increased by two percent (2%). That date shall be the beginning of the pay period that follows January 1, 2016 (first full payroll in 2016). See Section 14.6 herein.

Effective the date the OPFPF pickup being paid by the City to OPFPF for the bargaining unit employees is reduced from four percent (4%) to two percent (2%) the pay scale shall be

increased by two percent (2%). That date shall be the beginning of the last pay period that begins in December 2016. See Section 14.6 herein.

The annual increases in wages provided as a result of the foregoing pension swap shall be added to the general increase in the pay scale for that year, but such pension swap increases shall not be compounded on each other.

**Section 14.2. Starting Rate on Initial Employment.** Original appointment to any position shall be made at the entrance Step A. Once a new appointee has completed the State of Ohio 240 hour Fire Fighters Course and holds a valid State of Ohio EMT Certification and completes six (6) months of employment with the city, the appointee shall advance to Step B. All additional step advancement shall be by successive one year steps. The appointee shall be subject to a one year probationary period.

**Section 14.3. Step Advancement.**

- A. Whenever a member has completed one (1) year of satisfactory service in any pay step of an applicable pay grade, the member shall advance to the next higher step of his/her pay grade.
- B. The City Manager may, at his/her discretion, grant an additional step increase to employees with exceptional qualifications or for members who have exhibited exceptional performance.

**Section 14.4. Pay Periods.** The compensation to members shall be paid on a biweekly basis.

**Section 14.5. New and Terminating Members.**

- A. Compensation of members beginning employment with the City between pay periods, except members on a fifty-six (56) hour week schedule, shall be paid on the basis of the hourly rate for that grade in which they are placed multiplied by the number of hours worked from the employment date to the end of the pay period.
- B. Compensation of members beginning employment with the City between pay periods who are on a fifty-six (56) hour week schedule shall be paid on the basis of the fifty-three (53) hour rate for that grade in which they are placed multiplied by the actual number of hours worked from the employment date to the end of the pay period.
- C. Compensation of members terminating employment with the City between pay periods shall be paid on the basis of the hourly rate for that grade in which they are placed, multiplied by the actual number of hours worked from the beginning of the pay period to the termination date.

**Section 14.6. Retirement Assumption.** The City's method of payment of salary and the provision of fringe benefits to members of the bargaining unit covered by this Agreement who are participants in the Ohio Police and Fire Pension Fund ("OPFPF") are hereby modified as follows, in order to phase out the assumption of employee contributions to the Fund:

A. The amount of the contributions to OPFPF that are paid by the City per Section 14.1 (commonly referred to as a fringe benefit pick-up) is set forth in Subsection 14.6(B) below. The remaining portion of the mandatory employee contribution will be submitted as a tax deferred contribution (commonly referred to as a salary reduction method pick-up). Pension pickup is subject to Section 14.1 of this Article.

B. 

<b><u>Effective Date of Revised Pickup:</u></b>	<b><u>% of Employee's "Salary" City Will Pay as "Fringe Benefit Pick-up":</u></b>
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The first full pay period following ratification of this Agreement and passage of the Ordinance as required by OPFPF	eight percent (8%)
Start of 1 <sup>st</sup> full payroll period that follows January 1, 2015	six percent (6%)
Start of 1 <sup>st</sup> full payroll period that follows January 1, 2016	four percent (4%)
Start of the last pay period beginning in December 2016	two percent (2%)
All of the foregoing as shown in Exhibit A.	

C. The amount picked up by the City shall not be included in the employee's total annual salary for the purpose of computing daily rate of pay, for determining paid salary adjustments to be made due to absence, or for any similar purpose.

D. The pickup shall be designated as public employee contributions and shall be in lieu of contributions to OPFPF by each employee. No person subject to this pickup shall have the option of choosing to receive the statutorily-required contribution to OPFPF directly instead of having it picked up by the City or of being excluded from the pickup. The City shall, in reporting and making remittance to OPFPF, report that the public employee contribution for each person subject to the pickup has been made as provided in the statute. Therefore, contributions, although designated as employee contributions, are employer-paid, and employees do not have the option to receive the contributions directly. All contributions are paid by the employer directly to OPFPF.

E. If the City's assumption of employee retirement contributions should no longer be permitted by State and Federal law or regulations, members shall be paid in cash for the amounts that otherwise would have been paid on their behalf under this provision.

**Section 14.7. Service Credit Compensation.**

A. As compensation for years of City service, members shall be entitled to additional compensation based upon years of completed service as follows:

Compensation to begin after completion of the fourth year of service. The first year of compensation shall be the sum of six hundred thirty-eight dollars and 39 cents (\$638.39) and shall increase by one hundred six dollars and forty cents (\$106.40) for each additional year of service up to a maximum of two thousand seven hundred sixty-six dollars and 37 cents (\$2,766.37).

B. Service credit shall be paid once each year on the last pay day in November. A member who leaves the City service during the year, with the exception of retirement, shall have

credited 8.33% of the appropriate annual compensation for each completed month of the calendar year. A member who retires under the Police and Fire Pension Fund shall receive the full compensation at the time of retirement.

- C. If a member is killed in the line of duty, the annual service credit otherwise due the member in November, based upon completed years of service the member would have attained at the end of the calendar year in which the member died, shall be paid in a lump sum to his or her surviving spouse, or secondarily to his or her estate provided such payout is permissible under Internal Revenue Service regulations and probate laws and other applicable law.

**Section 14.8. Tuition Reimbursement.**

- A. Each member shall be eligible for one hundred percent (100%) reimbursement of tuition, fees and instructional materials but not application fees for job-related non-Internet courses that are either directly or indirectly related to the fire service; i.e., general management or other general skill building courses would be considered indirectly related to fire service. No reimbursement shall be provided for a member's enrollment in a law school degree program.

No reimbursement shall be provided for correspondence courses, with three (3) exceptions. First, an Internet course that is incidental to a member's attendance-based program shall not exclude the course from reimbursement. Secondly, members may enroll in courses from accredited programs offered through the Internet, subject to course approval under Subsection (B) below and subject to the cap imposed by the following paragraph. Thirdly, members may enroll in any nationally accredited fire science "Open Learning" degree program.

The City may impose an annual cap of no less than an aggregate of nine thousand dollars (\$9,000) for all bargaining unit members. If the cap would be exceeded, conflicts would be resolved on a first-come, first-serve basis unless the Labor Relations Team agrees upon an alternative equitable method.

- B. All course work subject to reimbursement shall be approved in advance by the Fire Chief and the City Manager. If practicable, a member shall make application for approval of coursework reimbursement at least fifteen (15) days prior to commencement of the course of study.
- C. Courses are to be taken on other than scheduled working hours, unless special leave is authorized under Article 21.
- D. Reimbursement shall be made upon successful completion of the course with a grade of C (2.00) or better. The member shall submit an official transcript or certificate demonstrating successful completion of the course and a receipt from the institution confirming the member has paid for tuition, fees and instructional materials. Any financial assistance available to the member shall be deducted from the amount of tuition reimbursement that would otherwise be payable. The member shall not be reimbursed

for incidental expenses such as paper or supplies, mileage, parking, meals, or any other expenses other than tuition, fees and instructional materials. The member shall be entitled to keep all instructional materials used in the course.

- E. If a member leaves the Division within two (2) years of completion of the course, except in cases of retirement, all costs for tuition, fees and materials shall be reimbursed by the member to the City.

**Section 14.9. Paramedic Supplement.** A supplement equal to 5% of the hourly rate shall be paid to all State Certified Paramedics, except that officers shall receive the greater of the 5% of the hourly rate of a Step D firefighter or the following hourly amounts: Lieutenants \$1.53 for 40 hour employees or \$1.07 for 53 hour employees, Captains \$1.61 for 40 hour employees or \$1.12 for 53 hour employees, Battalion Chiefs \$1.82 for 40 hour employees or \$1.27 for 53 hour employees.

**Section 14.10. EMS Supplement.** A supplement of one dollar (\$1.00) per hour shall be paid to all members who are not paramedics riding on an EMS vehicle.

## **ARTICLE 15**

### **RATES FOR MEMBERS FOLLOWING CERTAIN PERSONNEL ACTIONS**

**Section 15.1. Temporary Work Assignments.** Any member assigned to a position of higher classification shall receive the minimum of that class or seven percent (7%) above his/her present rate, whichever is higher, for all hours worked at such higher classification. In order to receive the higher rate of compensation, a member must work at least three (3) hours in the higher classification.

**Section 15.2. Return to Duty.** When a member returns to duty in the same class of position after a separation from the City service of not more than one (1) year, which separation was not due to discreditable circumstances, the member may receive the step rate in the pay grade corresponding to the step rate received at the time of separation, and shall subsequently serve thereat for at least one (1) year as is normally required for advancement to the next higher step.

**Section 15.3. Return from Military Service.** Any member who leaves or has left the City service to enter the active service of the armed forces of the United States and who subsequently is reinstated to a position previously held by him/her shall be entitled to receive a compensation at the step rate, to which he/she would have been entitled had his/her service with the City not been interrupted by service in the armed forces.

**Section 15.4. Reduction.** Whenever a member is reduced for disciplinary or other reasons, his/her rate of pay shall be at the highest step in the lower grade.

**Section 15.5. Promotion.** Whenever a member is promoted, his/her rate shall be changed to the entrance step rate of the higher grade, or one step above his/her former rate, whichever is higher. A member must serve one year in a grade before being eligible to be promoted to a higher grade or to a higher rate within the same grade.

**Section 15.6. Requirements as to Continuity of Service.** Service requirements for advancement within the compensation schedules and for other purposes specified in the Agreement shall have the implication of continuous service, which means employment in the City service without break or interruption. Leaves of absence with pay and leaves without pay of less than thirty (30) days shall not interrupt continuous service and shall not be deducted from total service time. Absences on leave without pay in excess of thirty (30) days, except for extended service with the armed forces of the United States, shall be deducted in computing total service but shall not serve to interrupt continuous service.

## **ARTICLE 16** **HOURS OF WORK AND OVERTIME**

### **Section 16.1. Hours of Work.**

- A. **Forty (40) hour members.** The seven (7) day work period shall consist of five (5) eight (8) hour days or four (4) ten (10) hour days. The rates of pay and ranges prescribed in the pay plan for the respective positions are based on an average work week of forty (40) hours and a typical work year of 2,080 hours.
  
- B. **Fifty-six (56) hour members.** The regular workday for members other than Battalion Chiefs and Captains serving as Shift Commanders shall be twenty-four (24) hours, beginning at 7:30 A.M. of one morning and ending at 7:30 A.M. of the following calendar day. The regular workday for Battalion Chiefs and Captains serving as Shift Commanders shall be twenty-four (24) hours, beginning at 7:00 A.M. of one morning and ending at 7:00 A.M. of the following calendar day. Each work day shall normally be followed by at least forty-eight (48) consecutive hours off duty. The work period shall consist of twenty-one (21) consecutive days, and the regular work hours of members assigned to this period shall be 168; provided that on the effective date specified in Article 29 Duration regarding overtime calculation, the work period shall consist of fourteen (14) consecutive days, and the regular work hours of members assigned to this period shall be 96 or 120 depending on the rotation (96 then 120 then 120 and repeat). The rates of pay and ranges prescribed in the pay plan for the respective positions are based on an average work week of fifty-six (56) hours and a typical work year of 2,912 hours.

**Section 16.2. Overtime.** The City will pay members overtime pay at the rate of one and one-half (1½) times the member's regular rate of pay if and when required to do so by the federal Fair Labor Standards Act.

- A. Forty (40) hour members shall be compensated for overtime at the rate of one and one-half (1½) times the forty (40) hour rate.
  
- B. Fifty-six (56) hour members shall be compensated at the rate of one and one-half (1½) times the fifty three (53) hour rate for time actually worked in excess of one hundred fifty-nine (159) hours in the twenty-one (21) day work period; provided that effective on the date specified in Article 29 Duration regarding overtime calculation, fifty-six (56) hour members shall be compensated at the rate of one and one-half (1½) times the fifty-

three (53) hour rate for time actually worked in excess of one hundred and six (106) in the fourteen (14) day work period.

- C. Members may, at their discretion, receive compensatory time off in lieu of cash payment at the rates provided in Section 16.2.A and 16.2.B. Compensatory time will be paid out by the last pay in December of the year accrued.

No member shall accrue more than four hundred eighty (480) hours of compensatory time. Any member who reaches the four hundred eighty (480) hour limit shall thereafter be paid overtime compensation for overtime hours worked. Any member who requests the use of compensatory time shall be permitted to use the time within a reasonable period of making the request as long as the use of compensatory time does not unduly disrupt the operations of the City. All compensatory time which is not used within the calendar year it is accrued shall be paid in cash to the member at the rate of accrual.

- D. Time worked because of schedules being changed at the request of a member, or trading days at the sole option and by mutual consent of members and with prior consent of the Fire or Battalion Chief or Captain serving as Shift Commander, shall be excluded from the hours for which the member is entitled to overtime compensation under this Section.
- E. All overtime shall be approved by the Fire or Battalion Chief. Without limiting the other provisions of this Agreement, the parties acknowledge that the Fire Chief may direct the Battalion Chief or Captain serving as Shift Commander in his/her administration of Subsections 16.2.D and 16.2.E.
- F. During Leap Years, on February 29th, a three (3) unit split shift shall be used and all members who work during this shift shall be compensated with overtime pay at the rate of one and one-half (1½) times the appropriate rate.

**Section 16.3. Hours Worked.** Members shall be compensated for all hours actually worked. Uncertain and indefinite periods of a few minutes duration which are not part of the members fixed or regular working time or practically unascertainable periods regularly required to be spent on assigned duties need not be reported or compensated. Hours worked shall otherwise be construed in conformance with the Fair Labor Standards Act, 29 U.S.C. §201 et seq. and pertinent regulations promulgated thereunder by the Secretary of Labor.

**Section 16.4. Call-In Time.** Any member called to duty during off-duty hours shall be paid for a minimum of three (3) hours at the applicable rate of pay, except that when such call-in occurs less than three (3) hours prior to the member's regularly scheduled starting time, he/she shall be paid at the same rate for only the actual hours worked in overtime status.

**Section 16.5. Court Time.**

- A. Members, otherwise off-duty, who are required by a court subpoena to be and remain available for a work-related court session, upon telephone notice of the court shall be considered hours worked and shall be compensated at the appropriate overtime rate of

pay for actual time under the direction of the court. The member shall be considered to be on court stand-by status.

- B. A member who is subpoenaed to appear on a work-related matter and does appear in any court at a specific time (who is not on court stand-by status as described in Section 16.5 (A)) shall be compensated at a minimum of three (3) hours at the appropriate overtime rate of pay.
- C. Should the member be cancelled for the court appearance less than two (2) hours but more than thirty (30) minutes before the required time on the subpoena, the member shall be paid for two (2) hours at the appropriate overtime rate of pay.
- D. When the City makes normal and reasonable attempts to contact the member within the time limit in Section 16.5(C) above, and the member is not at home to answer their phone, there is no ability to leave a voice message; fails to retrieve a voice mail or other message; fails to receive or return any other form of communication; or fails to call/contact the on duty supervisor or designate and still reports to duty per the subpoena, the City will only compensate for the two (2) hours at a straight rate required under this section. No additional compensation under this section for a three (3) hour minimum show-up will be paid.
- E. When the City makes normal and reasonable attempts to contact the member prior to the time limit in Section 16.5(C) and the member is not at home to answer his or her phone; there is no ability to leave a voice message; fails to retrieve a voice mail or other message; fails to receive or return any other form of communication; or fails to call/contact the on duty supervisor or designate, the City is not required to pay the member should the member report per the subpoena and the court case had been canceled prior to the two (2) hour limit.
- F. The on duty supervisor or designate will document on a form prescribed by the division, the time the division was notified of the cancellation, the on duty supervisor or designate will also document the original notification or attempted notification time to the member and the method of notification; i.e., if the member was notified in person, if an attempt was made to call the listed number and there was no answer, if a voice mail message or other message was left, or if the message was delivered by any other means of communication. The documented original time of notification or attempted notification to the member will serve as the actual cancellation time under this section.
- G. If the member is not canceled and reports to court per the subpoena, the member will continue to receive compensation under Section 16.5(B) for three (3) hours minimum show up time. No additional compensation will be provided under this section.

**ARTICLE 17**  
**HOLIDAYS**

**Section 17.1. Fifty-six (56) Hour Members.**

- A. All members shall be given paid holidays and personal days (218.4 hours at the pay period that includes January 1 of the new year) for use in the calendar year as follows:
- New Year's Day, January 1
  - Martin Luther King Day, Third Monday in January
  - President's Day, Third Monday in February
  - Memorial Day, Fourth Monday in May
  - Independence Day, July 4
  - Labor Day, First Monday in September
  - Veteran's Day, November 11
  - Thanksgiving Day, Fourth Thursday in November
  - Christmas Eve Day, December 24
  - Christmas Day, December 25
  - Three (3) personal days
- B. Any balance of time not used as compensatory time off prior to the end of the pay period that is paid at the last regular pay day in December shall be paid for in cash at that last regular payday in December. For purposes of clarification, pay day means the last day an employee receives their check in December. For example, in 2014 for the pay period of November 30 to December 13 the last payday would be December 19. An employee who wishes to take an approved holiday off after that pay period must use time from his/her current vacation bank.
- C. An individual who joins the Fire Division after January 1 of the calendar year shall have holiday time credited at the rate of twenty-one and eight tenths (21.8) hours for each remaining holiday of the calendar year. With the exception of retirement, any member who leaves the Fire Division during the calendar year shall have twenty-one and eight tenths (21.8) hours deducted from unpaid time to his/her credit for each remaining paid holiday of the calendar year. Members who retire under the Police and Fire Pension Fund shall be paid for all hours remaining to their credit.

**Section 17.2. Forty (40) Hour Members.**

- A. The following days are declared paid holidays from which the eligible members will be excused from work:
- New Year's Day, January 1
  - Martin Luther King Day, Third Monday in January
  - President's Day, Third Monday in February
  - Memorial Day, Fourth Monday in May

- Independence Day, July 4
- Labor Day, First Monday in September
- Veteran's Day, November 11
- Thanksgiving Day, Fourth Thursday in November
- Christmas Eve Day
- Christmas Day, December 25
- Three (3) personal days

The holidays listed above shall be compensated for by crediting each member with eighty (80) hours of holiday time and twenty-four (24) hours of personal time at the pay period that includes January 1 of the new year.

- B. When any holiday listed above falls on Saturday, the preceding workday shall be considered the holiday. When the holiday falls on a Sunday, the following workday shall be considered the holiday.
- C. When any holiday listed above falls while an eligible member is on approved vacation leave, such holiday shall not be charged against vacation leave.
- D. In the event the Federal and State governments shall designate a day of the week for any of the holidays specified above, then said day shall be observed in accordance with said designation.
- E. A forty (40) hour member may elect to work a holiday of his/her choosing with the approval of the Fire Chief. Such approval shall not be unreasonably withheld. Members who elect to work a holiday will be compensated as outlined in Section F. Members who do not work a holiday shall have eight (8) hours deducted from their Holiday Bank. Members who take a personal day off, shall have eight (8) hours deducted from their Personal Bank.
- F. All members whose regular work week is Monday through Friday and who work on a day observed by the City as a holiday shall, in addition to their regular eight (8) hours pay, be paid at a rate of time and one-half (1½) their regular hourly rate for all hours worked on a holiday. Compensatory time off may be used in lieu of pay with the approval of the Fire Chief at any time during the calendar year in which it is credited.

**Section 17.3. Conversion of Members Transferring.** When transferring from fifty-six (56) to forty (40) or from forty (40) to fifty-six (56), the hours in the holiday bank shall be converted into the number of applicable days and then to the number of relative hours.

The fifty-six (56) hour bank: The 218.4 hours = 13 days @ 16.8 hours per day.  
 The forty (40) bank: The 104 hour bank = 13 days @ 8 hours each.

Transferring fifty-six (56) to forty (40): The 56-hour holiday bank shall be divided by 16.8 to equate the bank into equivalent days. The days will then be multiplied by 8 to convert them to a

40-hour bank. Eight (8) hours for each remaining holiday will be assigned to a holiday bank. Any additional hours will be assigned to a personal bank.

If there are not a sufficient number of hours in the 40-hour holiday bank for each remaining holiday taken by the member, a member shall use vacation hours for the remaining hours off for holidays.

Transferring forty (40) to fifty-six (56): All hours in the holiday and personal bank shall be divided by eight (8) to equate the banks of hours into equivalent days. The days will then be multiplied by 16.8 to convert them to a fifty-six (56) hour holiday bank.

Any balance, less any remaining holidays in the transferred forty (40) hour member personal and holiday bank shall be converted to the fifty-six (56) hour bank and shall be paid in cash at the last regular payday in December annually.

**Section 17.4. Payment upon Death.** When a member dies while on paid status, all unused hours in the Holiday and Personal Bank shall be paid in a lump sum to his or her surviving spouse or secondarily to his or her estate, provided such payout is permissible under Internal Revenue Service regulations and probate laws and other applicable law.

**ARTICLE 18**  
**VACATION LEAVE**

**Section 18.1. Vacation Schedule.**

A. Forty (40) hour members. Bargaining unit members who work a forty (40) hour work week shall be entitled to vacation based on the following schedule:

After one (1) year of continuous service.....	96 hours
After three (3) years of continuous service.....	120 hours
After five (5) years of continuous service.....	136 hours
After eight (8) years of continuous service.....	160 hours
After ten (10) years of continuous service.....	176 hours
After thirteen (13) years of continuous service.....	200 hours
After each additional three (3) years.....	16 hours
However, the accrual rate shall not exceed the rate for thirty one (31) years of service	

Whenever such member is transferred back to a fifty-six (56) hour schedule, all accumulated vacation hours shall be converted to the fifty-six (56) hour rate using the factor of 1.4.

B. Fifty-six (56) hour members. Bargaining unit members who work a fifty-six (56) hour work week shall be entitled to vacation based on the following schedule:

After one (1) year of continuous service.....	144 hours
After three (3) years of continuous service.....	168 hours

After five (5) years of continuous service.....192 hours  
 After eight (8) years of continuous service.....216 hours  
 After ten (10) years of continuous service.....240 hours  
 After thirteen (13) years of continuous service.....288 hours  
 After each additional three (3) years.....24 hours  
 However, the accrual rate shall not exceed the rate for thirty one (31) years of service

**Section 18.2. Vacation Year.**

- A. The vacation year shall be January 1 through December 31 of each year for scheduling purposes only (not for determining from which year’s bank vacation is drawn – see Section 18.3). Vacation must be scheduled by January 31. However, vacation days not scheduled by January 31 may be requested and used by the member as vacation after January 31 provided that the maximum of three (3) members are not scheduled off on vacation, prescheduled holiday time, personal time, compensatory time, or prescheduled training time. During the annual pre-January 31 scheduling of vacation days, four (4) members shall be allowed off at any given time. See also 18.4(J) below.
- B. Fifty-six (56) hour personnel shall schedule vacation in twenty four (24) hour increments during the initial signup period. Vacation may be scheduled in increments of three (3) hours or more after January 31. Forty (40) hour personnel shall schedule vacation in one (1) hour increments. Any member may schedule entire allowed vacation time earned for the year during the initial signup period. Vacation hours carried over from the previous year may be used after January 31 provided that the maximum of three (3) members are not scheduled off.

**Section 18.3. Vacation Carry Over.** A member who wishes to take an approved vacation after the end of the last pay period in December must use time from his or her next year’s bank (which may include properly carried over vacation time). For example, the last pay period in 2014 is December 14 to December 27 payable to the employee on January 2, 2015. In order to receive the vacation carry over, a member shall give written notification to the Chief by December 1. Each member shall be permitted to carry over no more than one hundred twenty (120) hours of vacation leave from year to year, on a rolling aggregate basis. (Not 120 plus what you did not use in the previous year. For example, if a member’s unused previous carryover plus unused current year accrual exceeds 120 hours, the carryover remains limited to 120 hours and the member is required to cash out the overage.)

A member’s balance of vacation time that is not used by the end of the last pay period in December (in 2014 that date is December 27), and that is not carried over as provided in this Section 18.3, shall be paid in cash. That vacation payoff shall occur no later than the second pay period of the new year.)

**Section 18.4. Additional Considerations.**

- A. All vacations shall be at full pay at current forty (40) or fifty-three (53) hour salary rates, as appropriate.

- B. Compensation for vacation leave in lieu of time off shall not be granted, except as provided in Sections 18.3. and 18.4.G.
- C. For purposes of this Article, any member whose service with the City would otherwise be continuous, but for absences due to military service, shall be deemed to have had continuous service with the City.
- D. Where a member becomes deceased while in paid status in City employment, any unused vacation leave standing to his/her credit shall be paid in a lump sum to the surviving spouse, then secondarily to the deceased's estate.
- E. Any member separated from employment with the City shall be paid in a lump sum for any unused vacation leave to his/her credit.
- F. All vacation leave shall be taken at such times at the discretion of and as approved by the Battalion Chief as appropriate.
- G. Members with time in their vacation bank shall be paid for all hours accumulated at the rate in effect at the end of the year in which they request payment.
- H. All vacation days shall be scheduled by January 31 of each year, and vacation days shall not be changed without a written request to the Battalion Chief. Any calendar days where the maximum of three (3) members are not scheduled for vacation, holiday or compensatory time may be utilized to schedule members to school, classes or other training, may exclude that day from further scheduling of time off.
- I. In order to be eligible for vacation, a member must attain one year of continuous service.
- J. After January 31<sup>st</sup> and vacations are scheduled, the Battalion Chiefs will begin to schedule physicals. As they are scheduling physicals, only one each day will be coded EW3, and any other physicals will be EW. Also, the paramedic school students shall not count as one of the three members allowed to be off at any given time.

**ARTICLE 19**  
**WAGE CONTINUATION**

**Section 19.1. Wage Continuation (WC).** A member may be granted WC with pay not to exceed one thousand four hundred fifty-six (1,456) hours per injury. WC shall be charged at the rate of one (1) hour for each work hour absent.

**Section 19.2. Conditions.**

- A. WC shall be granted to any member only for injuries or other disabilities which are incurred in the performance of City employment and which are determined by a licensed physician to have so disabled such member that the duties of his/her position cannot be

performed. Musculoskeletal, cardiovascular, respiratory, and pulmonary disabilities are some, but not all, possible examples of such service related injuries.

- B. Members granted WC are required to:
  - 1. attend scheduled medical appointments barring unforeseen circumstances
  - 2. contact the Human Resources Assistant regarding the change in status of the injury
  - 3. adhere to medical restrictions at work and away from work
  - 4. participate, when appropriate, in the design of the member's Transitional Work Program
- C. The City may require an independent medical examination for any member requesting WC at the City's expense; the City shall provide members a copy of the questions the City would like the physician to answer as well as a copy of the physician's report.
- D. If a member is denied WC for any reason, the time off shall be counted as sick leave until such time that an appeal is heard by the Bureau of Workers' Compensation. Both parties reserve the right to accept the decision of the Bureau of Workers' Compensation system or exhaust the remedies permitted by the Ohio Revised Code. In the event of a final decision in favor of the member, the member shall be placed on WC and all previously used sick leave or other paid leaves will be restored to the member's credit retroactive to the date of the injury.
- E. Any examinations required by the City or the Bureau of Workers' Compensation shall be at the City's expense, take place during normal work hours, and time off shall not be charged to the member.

**Section 19.3. Approval.** WC shall be granted by the City Manager upon the recommendation of the Fire Chief.

**Section 19.4. Reporting.**

- A. As soon as possible, members shall report to their immediate supervisor all incidents and accidents that may result in an injury.
- B. As soon as possible, the member shall forward to the City Manager's Office a completed accident report.
- C. To request WC, a member shall complete a request for WC form and medical forms.

**Section 19.5. Use of Leave.** When, by nature of a disability, a member becomes entitled to benefits under the Workers' Compensation law, the member may be granted a leave of absence without compensation from the City and receive Workers' Compensation benefits. If such

member reports to work physically fit, following the date such member was authorized to return to work by a physician, the member shall be restored to his/her former status such as probation or rank. If the member does not report for work, his/her service with the City shall be considered terminated.

In the event a member, who is entitled to WC uses the maximum allowable WC per injury, and is still unable to return to active duty, the member may, with the approval of the Fire Chief and the City Manager, utilize any accrued sick leave and other paid leaves to his/her credit before being placed on leave of absence without pay.

**Section 19.6. Limitation on Wage Continuation.** No WC payments or compensation which the member would otherwise become eligible for under Workers' Compensation will be made to a member who is actually working for another employer during the members regular shift, or where such work involves or requires the performance of the same or similar duties as those regularly performed by the member, or where the job involves duties and/or physical demands which would conflict with the medical condition, or refuses to perform light/transitional duty as outlined in Section 19.7.

If, at any time, it becomes evident (as determined by a physician) that the employee will not be able to return to work, then a disability retirement shall be initiated. If the employee does not initiate the disability retirement, then the City may terminate the employee.

Nothing contained in this article shall limit the City's right to fill a position while an employee is on wage continuation.

**Section 19.7. Transitional Duty.** When an injury is such that it would allow a member to perform transitional or modified duty, a member on WC may be required to perform transitional duty, with the approval of the member's physician and subject to the following conditions:

- A. The duty is medically suitable.
- B. The duty fulfills a necessary job function.
- C. The transitional or modified duty is anticipated to be temporary in nature.

Transitional or modified duty will generally be eight (8) weeks or less. This will be determined by a treating physician and/or physical therapist in collaboration with the member and Human Resources. Under extenuating circumstances, a member may be on transitional duty beyond eight (8) weeks, pending a review by the physician and/or physical therapist, the employee, and Human Resources. Criteria for extension of transitional work beyond eight (8) weeks may include:

1. The member has demonstrated significant progress with respect to strength and endurance, and is expected to make a successful transition to work with additional program participation.

2. The nature and severity of the worker's restrictions requires a maximum transitional period that is expected to exceed eight (8) weeks.
3. Due to an aggravation of the worker's impairment, the worker's involvement in the program is temporarily disrupted, limited, or modified.
4. Has a disability retirement application pending.

**Section 19.8. Return to Duty.** A member shall return to full duty when a full release is given by the member's physician. The City may require the member to be examined by a physician of the City's choice at no cost to the member. If the member and the City's physician do not agree, the member and City will select a third physician, who may be a specialist in the injury at issue.

## **ARTICLE 20** **SICK LEAVE WITH PAY**

### **Section 20.1. Accrual.**

- A. Fifty-six (56) hour members. All fifty-six (56) hour members shall be credited with one hundred sixty-eight (168) hours of sick leave in the pay period that includes January 1 of the new year. Sick leave shall be charged at the rate of one (1) hour for each work hour absent. All unused sick leave shall be cumulative without limit.
- B. Forty (40) hour members. All forty (40) hour members shall be credited with one hundred twenty (120) hours of sick leave in the first pay period of the new year. Sick leave shall be charged at the rate of one (1) hour for each work hour absent. All unused sick leave shall be cumulative without limit.
- C. Adjustment between forty (40) hour and fifty-six (56) hour schedules: Whenever a fifty-six (56) hour member is assigned to a forty (40) hour schedule, all accrued sick leave hours will be adjusted by dividing by 1.4 to convert to a forty (40) hour rate. Whenever a forty (40) hour member is assigned to a fifty-six (56) hour schedule, all accrued sick leave hours will be adjusted by multiplying by 1.4 to convert to a fifty-six (56) hour rate.
- D. Members newly hired shall accrue sick leave with pay at the following rates: fifty-six hour (56) hour members shall accrue 6.462 hours of sick leave for each completed pay period of service through the end of the last pay period of the calendar year the member is hired; forty (40) hour members shall accrue 4.615 hours of sick leave for each completed pay period of service through the end of the last pay period of the calendar year the member is hired.

**Section 20.2. Sick Leave Usage.** Sick leave may be granted only upon approval of the Fire Chief for the following reasons:

- A. Sickness of the member himself.

- B. Injury to the member himself, except where such injury is incurred in the performance of employment for hire other than his or her employment with the City: (Example: cutting hand on lathe at home, falling off step ladder while painting at home, etc.)
- C. Sickness in the immediate family requiring the presence at home of the member more than one work day (24 hours total) for a fifty-six (56) hour member, and for more than three (3) calendar days (24 hours total) for a forty (40) hour member will require a certificate of the attending physician before any member will receive pay under the above situation. Sick leave with pay thus chargeable shall not exceed three (3) working days (72 hours total) for a fifty-six (56) hour member, and shall not exceed five (5) working days (40 hours total) for a forty (40) hour member in any calendar year, except upon the recommendation of the Fire Chief and approval of the City Manager.
- D. If a member is on sick leave for other than self, and a member of the family is sick other than the spouse, the member will report for duty when the spouse returns home.
- E. Quarantine because of contagious disease: The Fire Chief shall require a certificate of the attending physician before paying any member under this paragraph.
- F. No continuous sick leave in excess of four (4) calendar days shall be allowed except upon the certificate of a licensed physician to be filed with the Fire Chief no later than seven (7) calendar days after the commencement of illness. The certificate shall state the nature of the illness and probable length. Additional certificates may be required by the Fire Chief in cases of prolonged illnesses.
- G. In unusual and specific circumstances, the City Manager may grant additional sick leave with pay to members. In each case, the City Manager shall make a complete investigation, review and consult with the Fire Chief on the employee's service and work record; and the nature or seriousness of the sickness or physical disability. A report shall be made and filed together with a medical certificate. This extension of days absent may be made on any basis that the particular case warrants, in the opinion of the City Manager, but the additional sick leave with pay for members who have one (1) year or more of continuous employment with the City, shall not exceed forty-two (42) calendar days. For members who have less than one year of continuous employment with the City, the additional sick leave with pay shall not exceed fourteen (14) calendar days. Any member who does not return to work physically fit within the designated time provisions shall be removed from the payroll and marked on "Leave of Absence." If such member reports to work, physically fit, within fifteen (15) days following the date of the leave of absence, the member shall be restored to his/her former status at his/her former rate of compensation. If any member does not report to work within this fifteen (15) day period, his/her service with the City shall be considered terminated. Further extension of sick leave for members may be granted as the Council directs.
- H. Any member who has been granted additional sick leave under the provisions of Section 20.2(H) above, shall have said granted sick leave deducted from any sick leave earned, as provided in Section 20.1 above.

**Section 20.3. Wellness Payments.**

- A. A member on a forty (40) hour schedule who does not use any sick leave in a calendar year will be compensated with twenty-four (24) hours of pay. Such member who uses eight (8) hours or less of sick leave during a calendar year shall be compensated with sixteen (16) hours of pay. A member who uses more than eight (8) hours but less than sixteen (16) hours of sick leave during a calendar year shall be compensated with eight (8) hours of pay.
- B. A member on a fifty-six (56) hour schedule who does not use any sick leave in a calendar year will be compensated with twenty-four (24) hours of pay. Such member who uses twenty-four (24) hours or less of sick leave during a calendar year shall be compensated with sixteen (16) hours of pay. A member who uses more than twenty-four (24) hours but less than forty-eight (48) hours of sick leave during a calendar year shall be compensated with eight (8) hours of pay. The compensation shall be at the forty (40) hour rate.
- C. In calculating the compensation provided for in sections (A) and (B), above, pay supplements shall not be added to the base rate of pay.
- D. In order to be eligible for the wellness payment, a fifty-six (56) hour member must work at least one thousand four hundred fifty-six (1,456) hours and a forty (40) hour member must work at least one thousand forty (1,040) hours during the year.
- E. Wellness pay shall be made to the member no later than the second pay in January.

**Section 20.4. Conversion Upon Retirement.**

- A. All full-time members shall, at the time of their retirement under the Police and Fire Pension Fund, receive payment in a lump sum in accordance with the following schedule:
  - 1. For members on a fifty-six (56) hour schedule, the hourly rate of pay shall be computed on the basis of a fifty-six (56) hour work week, based on the following schedule:
    - a. Up to two thousand sixteen (2,016) hours, at the rate of one (1) hour of pay for each four (4) hours of accumulated and unused sick leave to the member's credit;
    - b. From two thousand sixteen (2,016) hours to two thousand six hundred eighty-eight (2,688) hours, at the rate of one (1) hour of pay for each three (3) hours of accumulated and unused sick leave to the member's credit;
    - c. Above two thousand six hundred eighty-eight (2,688) hours, at the rate of one (1) hour of pay for each two (2) hours of accumulated and unused sick leave to the member's credit.

2. For members on a forty (40) hour schedule, the hourly rate of pay shall be computed on the basis of a forty (40) hour work week, based on the following schedule:
  - a. Up to one thousand four hundred forty (1,440) hours, at the rate of one (1) hour of pay for each four (4) hours of accumulated and unused sick leave to the member's credit;
  - b. From one thousand four hundred forty (1,440) hours to one thousand nine hundred twenty (1,920) hours, at the rate of one (1) hour of pay for each three (3) hours of accumulated and unused sick leave to the member's credit;
  - c. Above one thousand nine hundred twenty (1,920) hours, at the rate of one (1) hour of pay for each two (2) hours of accumulated and unused sick leave to the member's credit.
- B. Fifty-six (56) hour members who have an excess of two thousand six hundred eighty-eight (2,688) hours to their credit at the end of the calendar year and forty (40) hour members who have an excess of one thousand nine hundred twenty (1,920) hours to their credit at the end of the calendar year may convert the hours in excess of two thousand six hundred eighty-eight (2,688) or one thousand nine hundred twenty (1,920), as appropriate, into cash at the rate of one hour of pay for each two (2) hours of sick leave. Payments for all converted hours shall be issued to the member no more than thirty (30) days from submission of request.

**Section 20.5. Light Duty.** The City shall make available light duty positions to members off on sick leave due to non-work related injury, providing that such positions are available. The ability to work light duty shall be subject to any limitations imposed by the member's physician. Light duty positions may be in other departments of the City. The evaluation provided in Section 19.8 shall apply to members on light duty provided under this section.

**Section 20.6. Short-term and Long-term Medical Disability.**

- A. Each member is eligible for the short-term medical disability programs and each full-time non-vested member is eligible for the long term medical disability program for non-work related illnesses and injuries. Such illnesses and injuries include, but are not limited to serious diseases; disabilities caused by pregnancy, childbirth, or related medical conditions or physical impairment due to accidents. The City may require certification of an employee's continuing illness or disability by a physician.
- B. The short term program provides for payment to the member from the forty-sixth (46<sup>th</sup>) day of accident or illness for a maximum of one hundred eighty (180) days, at sixty percent (60%) of the member's gross wages.

- C. The long-term program provides for payment to the member from the one hundred eighty first (181<sup>st</sup>) day of the accident or illness for a maximum of two (2) years at sixty percent (60%) of the member's gross wages in effect at that time.
- D. The member may elect to use all or part of his/her accumulated sick leave in order to make up any difference between one hundred percent (100%) of his/her gross wages and the amount which he/she receives under the disability programs.
- E. If a member exhausts all sick leave benefits, other approved leave may be granted by the City Manager.
- F. If, while receiving payments for short-term or long-term disability, the member performs work for the City or another employer, the amount of payment under the disability program shall be reduced by the compensation which he/she receives during that time period.
- G. While a member is paid short-term or long-term disability benefits pursuant to this section, step/merit increases would not be awarded until returning to work. The City shall maintain applicable insurance benefits for the member.
- H. Upon returning to work following a short or long-term medical disability leave, a member must present written certification from a physician attesting to the member's ability to perform the duties listed in the job description.
- I. In the event that a disability claim is denied by the Third Party Administrator, the member may follow the appeal process in the Employee Benefit Plan in the Employee Handbook.
- J. The City Manager or his/her designee shall be responsible for the administration of the short-term and long-term disability programs.

**Section 20.7. Payment Upon Death.** When a member who qualifies for age and service retirement dies while on paid status, all unused sick leave to his or her credit shall be paid in a lump sum to his or her surviving spouse, or secondarily to his or her estate, at the rate set forth above, provided such payout is permissible under Internal Revenue Service regulations and probate laws and other applicable law. If the member is killed in the line of duty, all unused sick leave to his credit shall be paid at the rate of one (1) hour of pay for every hour of accumulated and unused sick leave, at the rate in effect at the time of the member's death, provided such payout is permissible under Internal Revenue Service regulations and probate laws and other applicable law.

## **ARTICLE 21** **SPECIAL LEAVES**

**Section 21.1. Personal Leave.** The City Manager may authorize a member to be absent, with or without pay, for personal reasons for a period or periods not to exceed ten (10) working days in any calendar year.

**Section 21.2. Leaves of Absence.** The City Manager may authorize special leaves of absence with or without pay for any period or periods not to exceed three (3) calendar months in any one (1) calendar year for the following purposes: emergency military service; attendance at college, university, or business school, for the purpose of training in subjects related to the work of the member and which will benefit the member and the City service; urgent personal business requiring member's attention for an extended period of time such as settling estates, fire or natural disaster, liquidating a business, attending court as a witness, and for purposes other than the above that are deemed beneficial to the City Service.

The City Manager may also grant leaves of absence with or without pay, in excess of the limitations above for the purposes of attending extended courses of training at a recognized university or college, emergency military service, and for other purposes that are deemed beneficial to the City service.

**Section 21.3. Military Leave.**

- A. Any member who is a member of the Ohio Organized Militia, Ohio National Guard, U.S. Air Force Reserves, U.S. Army Reserves, U.S. Marine Corps Reserves, the U.S. Navy Reserves, or other Reserve Components of the Armed Forces of the United States shall be granted military leave of absence without loss of pay as outlined in (C) below for the time the member is performing service in the uniformed services, for a period not to exceed one hundred seventy-six (176) hours for a forty (40) hour member or two hundred forty (240) hours for a fifty-three (53) hour member during a calendar year or any greater amount required by Ohio Revised Code Section 5923.05, as amended from time to time.
- B. Any member of those components listed above who is called or ordered to military service for longer than a month for each calendar year, because of an executive order signed by the President of the United States, or an act of Congress, or an order to perform duty issued by the Governor pursuant to Section 5919.29 or 5923.21 of the Revised Code shall be granted such leave without loss of pay as outlined in (C) below.
- C. The member shall be reimbursed by the City for the difference between his/her regular City compensation and such compensation as he/she may receive, excluding dependent allowances or housing allowances for such military service.
- D. In order to receive such reimbursement, the member shall be required to produce an order or statement from the appropriate military commander as evidence of duty and such military service pay records as may be deemed necessary by the Finance Director.
- E. Periods beyond one (1) year or three hundred sixty-five (365) days of military leave shall be subject to review by the City Manager.
- F. The employee does have the option of requesting vacation time for use instead of military leave.

**Section 21.4. Funeral Leave.** The City Manager may grant funeral leave with pay, not to exceed one (1) work day to a fifty-six (56) hour member for death in the immediate family. Two

(2) additional workdays may be used by such fifty-six (56) hour member and charged to sick leave. The City Manager may grant funeral leave with pay, not to exceed three (3) work days for forty (40) hour members. Two (2) additional days may be used and charged to sick leave. Immediate family is defined as spouse, children, parents, brother, sister, grandparents, grandchildren, parents-in-law, brother-in-law, sister-in-law, and legal guardian of the member or the member's spouse. A member may use one (1) day of sick leave for a death in the extended family. Extended family is defined as aunts, uncles, nieces, nephews, cousins, grandparent-in-law, great-grand-parents, and great aunts and uncles.

**Section 21.5. Jury Duty Leave.** A member, while serving upon a jury in any court of record, will be paid his/her regular salary for each of his/her workdays during the time so served. Jury duty fees paid to the member by the court shall be returned to the City for regular working days only (per the MOU dated 02/03/2010). The member shall keep his/her supervisor apprised on a daily basis as to the expected duration of the jury service. A copy will be made of the notice and filed and recorded in the employee's personnel file:

- A. When notified by the court to report for jury duty on a certain day, report shall be completed and signed by the assignment commissioner or appropriate court official for each day during jury service setting for the time and arrival and departure from the court. Such records shall be presented by the employee to his/her supervisor upon return to work.
- B. When a 40 hour member is not required to be in court for jury duty for two (2) or more hours of his/her regular shift, he/she shall report work. The supervisor in each individual case shall determine the time the employee shall be released from work to report for jury duty or return to work after being released from jury duty, taking into account a reasonable allowance for travel time. Other than travel time the total hours worked when added to the time required on jury duty will not be outside of the regular scheduled hours of the member. Alternatively, the employee, at his/her option, may charge such duty time at the beginning or end of his shift as vacation leave or compensatory time.
- C. When a 56 hour member is required to report for jury duty on a day following his/her regular shift, he/she will be relieved of duty with pay at approximately 2200 hours the night before. If a 56 hour member is excused from jury duty before 1600 hours on his/her regular duty he/she shall return to duty for the remainder of his/her shift, or until 2200 hours if required to report for jury duty again the following day. If the employee is excused from jury duty after 1600 on his/her regular duty day and is required to report for jury duty again the following morning, he/she shall be relieved of duty for the entire shift. When a 56 hour member is released from jury duty after 1600 hours on a regular duty day and their jury duty obligation has concluded, the member shall report to work for the remainder of their shift.
- D. All time while serving on jury duty by the member shall be marked as EW.
- E. Members will be ineligible for OT for any part of the nine and one-half (9½) hours preceding a day when the member is to report to jury duty. Refusing OT during this time and the time spent on jury duty shall not be counted against the member.

**Section 21.6. Examination Leave.** Time off with pay shall be allowed to a member to take City Civil Service tests or to take required examinations, pertinent to their City employment as determined by the Fire Chief, before licensing boards.

**Section 21.7. Pregnancy-related Disability Leave.** Pregnancy-related disability shall be treated as any other non-work-related disability. The employee requesting pregnancy-related leave shall present a statement from her attending physician verifying the pregnancy and supporting her request. At the Fire Chief's option, the employee may be placed in a light duty assignment unless the employee's attending physician certifies the employee's inability to perform in the light duty assignment. If the employee's attending physician certifies she is unable to work, the employee may utilize any available leave and/or leave without pay for the period of the disability as verified by the attending physician.

**Section 21.8. Emergency Family Leave.** The City Manager shall grant family and medical leave as provided in the Family and Medical Leave Policy, referenced as Appendix A, and incorporated herein.

In the event of the conflict between the policy and the provisions of the Family and Medical Leave Act or regulations promulgated thereunder, the provisions of the Act and/or regulations promulgated thereunder shall control. The provisions of the policy are also subject to the terms of this collective bargaining agreement, including but not limited to Article 8.

## **ARTICLE 22** **ATTENDANCE**

**Section 22.1. Absence without Leave.** A member who intends to be absent from duty without pay shall report the reason to his/her supervisor prior to the date of absence, when possible, and in no case later than noon on the first day of absence. All unauthorized and unreported absences shall be considered absence without leave. Such unauthorized absence may be grounds for disciplinary action.

## **ARTICLE 23** **INSURANCE**

**Section 23.1. Life Insurance.** The City shall provide Life Insurance and pay the premiums for coverage with a death benefit of seventy-five thousand dollars (\$75,000), or in an amount equal to the member's base salary rounded to the nearest one thousand dollars (\$1,000.00), whichever is higher, of group term life insurance for all full-time bargaining unit members less than sixty-five (65) years of age. Such coverage shall include double indemnity for accidental death and disability including where a member is killed in the line of duty.

**Section 23.2. Liability Coverage.** The City shall continue to provide ambulance driver's malpractice and firefighters errors and omissions insurance at the present levels of coverage, at no cost to the member. The City may provide such coverage by purchasing liability insurance, self-insuring, or a combination thereof. The City will provide the Union with the appropriate certification of coverage.

**Section 23.3. Coverage.** The City shall provide health and dental insurance coverage for a bargaining unit member and any eligible members of his/her immediate family, as defined by the City's Self-funded health and dental insurance programs. The election of such family insurance coverage shall be at the option of the bargaining unit member, but the City and the member shall pay the premium costs for health insurance as follows:

The member contribution shall be up to ten percent (10%) of the monthly premium, not to exceed one hundred and twenty dollars (\$120) per month. The member contribution may be modified on or after January 1, 2014, so that a member's monthly premium contribution would be up to eleven percent (11%) of the monthly premium. The member contribution may be modified again on or after January 1, 2015, so that a member's monthly premium contribution would be up to twelve percent (12%) of the monthly premium. The member contribution shall not at any time during the life of the contract exceed the amount of contribution that the City requires at that time of all other eligible employees of the City covered by insurance.

**Section 23.4. Administration.**

- A. The Health, Dental, Life, and Benefits Programs and the Liability Insurance Programs shall be administered by the City Manager or his/her designee, who is authorized to make such reasonable rules and regulations as may be found necessary, from time to time, for its proper administration.
- B. The City, at its discretion, may designate an insurance agent, administrator, carrier, consultant, or third party administrator for the purposes of administering and/or obtaining health, life, and liability insurance programs.
- C. It is understood by the parties that the City will provide the bargaining unit employees with substantially the same level of benefits (e.g., eligibility requirements, covered procedures, pharmaceutical schedules, charges, fees, deductibles, co-payments, etc.) applicable to all other groups of represented employees and to all groups of non-represented employees by Ordinance; however, the City is not financially obligated to absorb any costs resulting from administrative program changes, cost containment measures, or other uniform changes approved by the Ohio Department of Insurance and made by insurance carriers or their agents, or mandated through the passage of a State or National Health Care Program. However, the City will enter into discussions with the Union, or a subcommittee, mutually agreed upon, to discuss any changes which substantially impact the cost of providing health and dental coverage to a majority of the members.
- D. The City may, at its discretion, change insurance carriers administrators, or self-fund for the purpose of providing health and dental coverage to its employees, or to effect cost-containment measures which permit the continuation of such level of benefits; except that the provisions of Section 23.3 shall define the City and member's costs. The City shall provide thirty (30) days written notice to the Union prior to any changes in insurance carriers or administrators.

- E. The City shall not be liable for premiums or other charges for the benefit of a member removed for disciplinary reasons.
- F. Should a State or National Health Care Program become Law prior to the end of this bargaining Agreement, the City and Union mutually agree to enter into discussions to determine the impact of the program and bargain such "affects" as may be relevant in accordance with ORC §4117.08.
- G. It is understood that the City may offer a non-mandatory Health Savings Account ("HSA") as an option to members covered by this Agreement, subject to the same terms and conditions and eligibility requirements as are offered to other employees of the City.

Under such non-mandatory HSA Plan, the City will make any City contributions to the participating member's account semi-annually in the first full pay periods in January and July of each year.

A member shall pay to the City the prorated amount of the City's semi-annual HSA contribution, based on the number of full months remaining in the period that semi-annual contribution was intended to cover, if the member is no longer enrolled and participating as a current City employee in the HSA by reason of separation from employment (for any reason other than the member's death) or as a result of the member's election not to participate in the HSA or health insurance plan coverage. The City is authorized to collect the above payments through payroll deduction from the member's wages and/or year-end pay and/or terminal pay. This paragraph applies to both mandatory and non-mandatory City HSA plans. Other than providing for a permissible recoupment of the City's HSA contribution under the circumstances provided above, this paragraph is not meant to add to or alter the HSA Plan(s).

It is understood that the City may change to a mandatory\* HSA plan subject to the following provisions:

1. Yearly deductibles shall be \$2000 for single coverage in network and \$4000 for family coverage in network.
2. In addition, the City will make the following contributions to each enrolled and participating members Health Savings Account:

Family Coverage	—	\$2500
Single Coverage	—	\$1250

The above payment amounts shall be semi-annually in the first full pay periods in January and July of each year.

Members who are newly hired during the year shall have the City's contribution to their HSA prorated based on the potential number of months to be employed by the City in the initial year of hire.

\*“mandatory” meaning it would be the only option available to such bargaining unit members for the type of insurance the HSA covers.

**ARTICLE 24**  
**PHYSICAL FITNESS / WELLNESS & MENTAL HEALTH PROGRAMS**

**Section 24.1. Daily Physical Fitness Program.**

- A. The City shall require members to participate in a Union and City designed and endorsed daily physical fitness program. The members shall exercise on duty at a specified time mutually agreed upon by the City and the Union. The City may allow all members to participate in voluntary fitness activities while on duty during times when no other scheduled events are taking place. The Chief reserves the right to approve or prohibit any such voluntary fitness activities. The City may make available voluntary diet programs to all members.
- B. The City shall provide each fire station with the necessary exercise equipment to properly follow the required daily physical fitness program.

**Section 24.2. Physical Fitness Evaluations.**

- A. The Physical Fitness Team and Safety and Health Team shall develop the annual physical fitness evaluation using the Fire Service Joint Labor Management Wellness/Fitness Initiative and professionally recognized fitness criteria. The Chief reserves the right to approve the annual physical fitness evaluation developed by the Physical Fitness Team and Safety and Health Team.
- B. The Fitness Team and the Safety and Health Team shall evaluate the fitness program and the annual evaluation test annually. This will ensure the maximum benefit to all participants on the fitness program.
- C. Members shall participate to the best of their ability in all phases of an annual physical fitness evaluation.
- D. A member who does not meet the fitness criteria, established by the Fitness Team in accordance with the Fire Service Joint Labor Management Wellness/Fitness Initiative, shall follow a physical fitness program developed in consultation with an exercise physiologist hired by the City in consultation with the Union. Members shall follow their individual programs during work hours. Direct supervisors will receive a list of members following a mandatory physical fitness program.
- E. Members following a physical fitness program shall be re-evaluated periodically or until the member meets the fitness criteria.

- F. No punitive action shall be taken by the City against any member for failing to meet the physical fitness criteria. A member may be disciplined for failing to participate to the best of their ability in the physical fitness program.

**Section 24.3. Medical Evaluation.**

- A. Schedule. The City will provide each member of the bargaining unit with a Basic Medical Evaluation and/or a Full Medical Examination in accordance with the schedule set forth as follows:

**1. Basic Medical Evaluation**

- a. Performed annually

**2. Full Medical Examination**

- a. Ages 29 and under – at least every three (3) years  
b. Ages 30 to 39 – at least every two (2) years  
c. Ages 40 and above – every year

B. Content.

1. The annual Basic Medical Evaluation shall consist of the following:
- a. An interval medical history
  - b. An interval occupational history, including significant exposures
  - c. Height and weight
  - d. Blood pressure
  - e. Heart rate and rhythm
  - f. Physical Fitness Evaluation
    - (1) 12 Lead ECG
    - (2) VO2 Max Test
    - (3) Body Composition
    - (4) Muscular Endurance
    - (5) Muscular Strength
    - (6) Flexibility
2. The Full Medical Examination shall include all of the components of the Basic Medical Evaluation as well as the following components:
- a. Vital signs – namely, pulse, respiration, blood pressure, and, if indicated, temperature
  - b. Dermatological system
  - c. Ears, eyes, nose, mouth, throat
  - d. Cardiovascular system
  - e. Respiratory system

- f. Gastrointestinal system
- g. Genitourinary system
- h. Endocrine and metabolic system
- i. Musculoskeletal system
- j. Neurological system
- k. Audiometry
- l. Visual acuity and peripheral vision testing
- m. Pulmonary function testing
- n. Laboratory testing
- o. Diagnostic imaging as indicated by a physician
- p. Electrocardiography
- q. Cardiovascular stress test as determined by physician and annually for ages 40 and over

C. Location and Attendance.

1. The location of the Basic Medical Evaluation and/or a Full Medical Examination will be determined by the Fire Chief. Members must attend their respective scheduled medical evaluations, barring any reasonable cause for absence (i.e. sickness, emergency fire/EMS operations, etc.).
2. If it becomes necessary to alter the location and/or content of the Basic Medical Evaluation and or the Full Medical Examination the Union will be notified of the reasons for the change. The City will receive a fit for duty report from the examining physician.

**Section 24.4. Employee Assistance Program.** The City shall continue to provide an Employee Assistance Program for the benefit of the members.

**Section 24.5. Drug and Alcohol Policy.** The City Manager shall establish a Drug and Alcohol policy, referenced as Appendix B, and incorporated herein.

## **ARTICLE 25**

### **MISCELLANEOUS ECONOMIC PROVISIONS**

**Section 25.1. Duty Living Conditions.** The City will continue to provide, to the extent practicable and within its management discretion, those items required to maintain a reasonable standard for duty living conditions. Nothing herein prevents the members from a continuation of the practice of daily maintenance and upkeep of their living quarters and firehouses.

**Section 25.2. Uniforms and Badges.**

- A. The City will continue to provide uniforms and equipment which meet the national standards of the fire service as determined by the Fire Chief.
- B. The determination of the appropriate dress or fatigue uniforms, clothing, and shoes to be purchased by the City and worn by the bargaining unit members shall be made as

determined by the Fire Chief. A policy regarding clothing previously made available by the City with respect to a clothing allowance will be developed through the Standard Operating Procedures Manual (SOP). The City will provide an opportunity for the Union to be represented through the Labor Relations Team.

- C. Should the City and the Union mutually determine it is necessary to provide a new style or variety of dress or fatigue uniform, clothing, or shoes to address safety, operational, or fiscal standards, such determination will be discussed with the Labor Relations Team and the Safety and Health Team prior to any changes by the City.
- D. Members shall be permitted to retain their official badges and helmets upon a written request prior to the event of a promotion, retirement, or in the event of the member's death, a request from his/her immediate family, at no cost to the member.
- E. Uniform Allowance.
  - 1. Initial Uniform Allowance. The City shall purchase required clothing and equipment for all new members to the level established in Section 25.2(B).
  - 2. In the first pay period of February of each year, each member of the bargaining unit will receive a uniform allowance in the amount of nine hundred dollars (\$900.00) for purchase of uniform items as listed in 25.2(B) and department SOP's.
  - 3. Any changes and/or additions to the clothing items that are currently required by the Fire Division for members which exceed sixty dollars (\$60.00) or more per contract year will be reimbursed in whole for additions or the difference thereof for any changes to the member.
  - 4. The City will continue to purchase and maintain the required turnout gear, including the required EMS coat, for all members. The purchase of non-required items are the responsibility of the member. The City shall also provide a properly sized, individual protective mask and provide all required maintenance through the S.C.B.A. program.

**Section 25.3. Personal Expenses.**

- A. Bargaining Unit members, whenever authorized by the Fire Chief or the City Manager to engage in or upon official business for or in behalf of the City of Upper Arlington, shall be reimbursed for all or part of such necessary incurred expenses as set forth in The Personnel Rules Governing City of Upper Arlington Employees as hereafter amended.

**ARTICLE 26**  
**MINIMUM MANNING STANDARDS**

**Section 26.1. Rights.** It is understood that notwithstanding the provisions of the minimum manning standards, the City does not waive its rights under Article 4, Section 4.1(C).

**Section 26.2. Minimum Manning Standards.**

- A. Engine companies shall be manned by no less than four (4) bargaining unit members.
  - B. Ladder companies shall be manned by no less than four (4) bargaining unit members.
- Medic vehicles shall be manned by no less than two (2) bargaining unit members.

**ARTICLE 27**  
**POLITICAL ACTIVITY**

- A. A member may participate in partisan political activity outside the City (unrelated to the City), provided that the member undertakes such participation while off-duty, while not in an identifiable City uniform, and does not represent that his/her participation is either undertaken in his/her official capacity as an employee of the City, or is sanctioned by the City.
- B. A member is permitted in the City of Upper Arlington to participate in partisan political activity, to express freely his/her personal political opinions, and to exercise his/her right to vote in political elections, except that a member shall not:
  - 1. Be required to contribute to any political candidate, party, or activity;
  - 2. Be required to sign nominating petitions, campaign for, endorse, or otherwise participate in political campaigns for any elected position within the City;
  - 3. Become actively involved in the management of any political campaign for any elected position within the City.
- C. Any political participation by a member within the City shall be undertaken while off-duty, while not in an identifiable City uniform, and without any representation that such activity is either undertaken in his/her official capacity as an employee of the City, or is sanctioned by the City.

**ARTICLE 28**  
**ENTIRE AGREEMENT**

**Section 28.1. Terms and Conditions.** The City and the Union agree that (1) the parties have had an unlimited opportunity to negotiate concerning any and all matters subject to collective bargaining, (2) the terms and provisions herein contained constitute the entire Agreement between the parties and supersede all previous communications, representations or agreements, either verbal or written between the parties hereto with respect to the subject matter herein, and (3), absent mutual agreement, neither party will be obligated to collectively bargain during the life of this Agreement with respect to any matter covered hereby or referred to herein, nor with respect to any other matter for which collective bargaining is not required by law.

**ARTICLE 29**  
**DURATION**

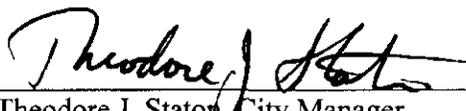
**Section 29.1. Term.** This Agreement shall be effective January 1, 2014 and shall continue in full force and effect until December 31, 2016 provided that City may defer the changes in overtime calculation until the first date that a fourteen (14) day calculation period may begin under the terms of the parties' Memorandum of Understanding relating to the City's elimination of the rank of Battalion Chief.

**Section 29.2. Successor Agreement.** The City and the Union mutually agree that either party may initiate negotiations for a successor Agreement by submitting a written request to negotiate to the other party no sooner than one hundred and twenty (120) days before this Agreement expires. Such negotiations shall be conducted in accordance with the provisions of Section 4117.14 of the Ohio Revised Code as amended from time to time.

**SIGNATURE PAGE**

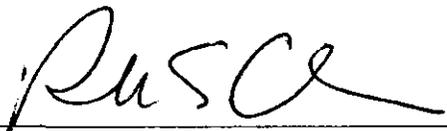
IN WITNESS WHEREOF, the authorized representatives of the parties have signed this Agreement as of the 12 day of March, 2014.

FOR THE CITY OF UPPER ARLINGTON :

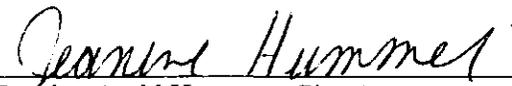
  
\_\_\_\_\_  
Theodore J. Staton, City Manager

FOR I.A.F.F. LOCAL 1521:

  
\_\_\_\_\_  
Robert M. Nichols, President IAFF Local 1521

  
\_\_\_\_\_  
Russell E. Carnahan, Counsel for IAFF Local 1521

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Jeannine Amid Hummer, City Attorney

**APPENDIX A**  
**FAMILY AND MEDICAL LEAVE POLICY**

**STATEMENT OF POLICY**

In accordance with the Family and Medical Leave Act (FMLA), the City of Upper Arlington will grant unpaid job protected family and medical leave to eligible employees for up to twelve (12) weeks per twelve (12) month period for any one or more of the following reasons:

**BASIC LEAVE**

- The birth of a child and in order to care for such child or the placement of a child with the employee for adoption or foster care (leave for this reason must be taken within the 12 (twelve) month period following the child's birth or placement with the employee); or
- In order to care for an immediate family member (spouse, child, or parent) of the employee if such immediate family member has a serious health condition; or
- The employee's own serious health condition that makes the employee unable to perform the functions of his/her position.

**MILITARY LEAVE**

Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to twenty-six (26) weeks of leave to care for a covered service member with a serious injury or illness incurred in the line of duty on covered active duty that may render the service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation or therapy; or is in outpatient status; or is on the temporary disability retired list.

Employment as a firefighter, EMT, or Paramedic elsewhere shall not be permitted while an employee is on FMLA leave of absence from the City for their own medical condition.

During approved FMLA leave, the City will maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. Upon return from FMLA, most employees will be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

An employee shall be disqualified from bonuses or other achievement based on a job-related performance goal, such as attendance, when the employee has not met the goal because FMLA leave was taken.

## **COVERAGE AND ELIGIBILITY**

- A. To be eligible for family/medical leave an employee must:
1. Work at a worksite which has fifty (50) or more employees or be within seventy-five (75) miles of a worksite that has fifty (50) or more employees;
  2. Have worked for the City for at least twelve (12) months; and
  3. Have worked at least 1250 hours over the previous twelve (12) month period.

## **DEFINITIONS**

- A. "Twelve (12) Month Period" – means a twelve (12) month period measured forward from the employee's first FMLA leave request.
- B. "Spouse" – does not include unmarried domestic partners. If both spouses work for the City, their total leave in any twelve (12) month period may be limited to an aggregate of twelve (12) weeks if leave is taken for either the birth or placement for adoption or foster care of a child or to care for a sick parent.
- C. "Child" – means a child either under eighteen (18) years of age, or eighteen (18) years of age or older who is incapable of self-care because of a mental or physical disability. An employee's "child" is one for whom the employee has actual day-to-day responsibility for care and includes a biological, adopted, foster or step-child.
- D. "Continuing Treatment" – A regimen that includes, for example, a course of prescription medicine (e.g., an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition. A regimen of treatment does not include the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bed-rest, drinking fluids, exercise, and other similar activities that can be initiated with a visit to a health care provider.
- E. "Covered Active Duty":
1. In the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country; and
  2. In the case of a member of a reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty under a provision of the law as referred to as Section 101(a)(13)(B).

F. "Covered Service Member":

1. A member of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or
2. A veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of five (5) years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

G. "Incapacity" – for purposes of FMLA, is defined to mean inability to work, attend school or perform other regular daily activities due to serious health condition, treatment therefore, or recovery therefrom.

H. "Serious Health Condition" – means an illness, injury, impairment, or a physical or mental condition that involves one of the following:

1. Hospital Care

Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity or subsequent treatment in connection with or consequent to such inpatient care; or

2. Absence Plus Treatment

Any period of incapacity requiring absence from work for more than three (3) consecutive full calendar days (including any subsequent treatment or period of incapacity relating to the same condition), and that also involves continuing treatment by a health care provider; or:

(a) Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health services (e.g., physical therapist) under orders of, or on referral by, a health care provider; or

(b) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.

3. Pregnancy

Any period of incapacity due to pregnancy, or for prenatal care.

4. Chronic Conditions Requiring Treatments

A chronic serious health condition which:

- (a) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;
- (b) Continues over an extended period of time (including recurring episodes of a single underlying condition); and
- (c) May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.).

5. Permanent/Long-term Conditions Requiring Supervision

A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

6. Multiple Treatments (Non-Chronic Conditions)

Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), and kidney disease (dialysis).

I. "Treatment" – includes examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations.

J. Serious Injury or Illness (Military Leave):

- 1. In the case of a member of the Armed Forces (including a member of the National Guard or Reserves), means an injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating; and

2. in the case of a veteran who as a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during a period described in paragraph (15)(B) of 29 U.S.C.A. §2611, means a qualifying (as defined by the Secretary of Labor) injury or illness that was incurred by the member in line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.

K. "Veteran" – has the same meaning as in 38 U.S.C A. §101(2).

### **INTERMITTENT OR REDUCED LEAVE**

- A. An employee may take leave intermittently (a few days or a few hours at a time) or on a reduced leave schedule to care for an immediate family member with a serious health condition or because of a serious health condition of the employee when "medically necessary".
  1. "Medically necessary" means there must be a medical need for the leave and that the leave can best be accomplished through an intermittent or reduced leave schedule. Medical certification must be provided by the employee within fifteen (15) days after requested, unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.
  2. The employee may be required to transfer temporarily to a position with equivalent pay and benefits that better accommodates recurring periods of leave when the leave is planned based on scheduled medical treatment.
  3. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operation.
- B. An employee may take leave intermittently or on a reduced leave schedule for birth or placement for adoption or foster care of a child only with the department's consent.
- C. Leave due to qualifying exigencies may also be taken on an intermittent basis.
- D. For eligible part-time employees and those who work variable hours, the FMLA leave entitlement is calculated on a prorated basis. A weekly average of the hours worked over the twelve (12) weeks prior to the beginning of the leave will be used for calculating the employee's normal workweek.

### **SUBSTITUTION OF PAID LEAVE**

- A. Employees may choose or the City may require an employee to substitute accrued paid leave (sick leave, vacation, personal leave, or comp time) for any part of a family/medical leave taken for any reason normal leave policies apply. If an employee uses paid leave time as part of their family/medical leave, it will be counted as part of the total twelve

(12) weeks or twenty-six (26) weeks, whichever is permitted, under the FMLA eligibility requirements. The City reserves the right to designate any qualifying leave under this policy to family/medical leave counted toward the employee's job-protected FMLA leave during the twelve-month period. The City may so designate such leave of its own initiative and regardless of an employee's request to count leave toward the FMLA total.

- B. When an employee has exhausted all accrued paid leave time for a portion of family/medical leave, the employee may request an additional period of unpaid leave which may be granted, provided that the total of paid and unpaid leave provided does not exceed twelve (12) weeks, or twenty-six (26) weeks, whichever, is permitted under the FMLA eligibility leave requirements.
- C. In order to use paid leave for FMLA leave, the employee must comply with the City's normal paid leave policies.

#### **MEDICAL CERTIFICATION**

- A. For leaves taken because of the employee's or a covered family member's serious health condition or for military leave, the employee must submit a completed Department of Labor applicable certification form (available from the Department of Finance and Administrative Services) and return the certification to the Department of Finance and Administrative Services. Medical certification must be provided by the employee within fifteen (15) days after requested, unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.
- B. The City may require a second or third opinion (at its own expense), periodic reports on the employee's status and intent to return to work, and a fitness-for-duty report to return to work.
- C. All documentation related to the employee's or family member's medical condition will be held in strict confidence and maintained in the employee's medical records file.

#### **EFFECT ON BENEFITS**

- A. An employee granted a leave under this policy will continue to be covered under the City's group health insurance plan, life insurance plan and long-term disability plan (if applicable) under the same conditions as coverage would have been provided, if they had been continuously employed during the leave period.
- B. Employee contributions will be required either through payroll deduction or by direct payment to the Department of Finance and Administrative Services. The employee will be advised in writing at the beginning of the leave period as to the amount and method of payment. Employee contribution amounts are subject to any change in rates that occurs while the employee is on leave.
- C. If an employee's contribution is more than thirty (30) days late, the City may terminate the employee's insurance coverage.

- D. If the City pays the employee contributions missed by the employee while on leave, the employee will be required to reimburse the City for delinquent payments (on a payroll deduction schedule) upon return from leave. The employee will be required to sign a written statement at the beginning of the leave period authorizing the payroll deduction for delinquent payments.
- E. If the employee fails to return from unpaid family/medical leave for reasons other than (1) the continuation of a serious health condition of the employee or a covered family member or (2) circumstances beyond the employee's control (certification required within thirty (30) days of failure to return for either reason), the City may seek reimbursement from the employee for the portion of the premiums paid by the City on behalf of the employee (also known as the employer contribution) during the period of leave. It shall be considered an unauthorized absence if the employee does not return from FMLA leave on the date the physician approved as the employee's "return to work" date.
- F. An employee is not entitled to seniority or benefit accrual during periods of unpaid leave but will not lose anything accrued prior to leave, intermittent or reduced leave schedule.
- G. Wage Continuation and Worker's Compensation: If the employee is on FMLA leave as a result of an on-the-job accident and/or injury, the provisions of the Worker's Compensation laws shall apply and the leaves shall run concurrently.

## **JOB PROTECTION**

- A. If the employee returns to work within the applicable limitation of twelve (12) weeks for family/medical leave or twenty-six (26) weeks for military caregiver leave, he/she will be reinstated to his/her former position or an equivalent position with equivalent pay, benefits, status and authority.
- B. The employee's restoration rights are the same as they would have been had the employee not been on leave. Thus, if the employee's position would have been eliminated or the employee would have been terminated but for the leave, the employee would not have the right to be reinstated upon return from leave.
- C. If the employee fails to timely return following an approved FMLA leave, the employee may be reinstated to his/her same or similar position at the City's discretion. While the City observes all applicable laws, employment may be terminated at that time or thereafter.

## **EMPLOYEE RESPONSIBILITIES**

Employees must provide thirty (30) days advance notice of the need to take FMLA leave when the need is foreseeable. When thirty (30) days' notice is not possible, the employee must provide notice as soon as practicable and generally must comply with the City's normal call-in procedures.

Employees must provide sufficient information for the City to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the City if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

### **CITY RESPONSIBILITIES**

The City shall inform employees whether the employee is eligible under FMLA. If the employee is eligible, the City's notice shall specify any additional information required as well as the employees' rights and responsibilities. If the employee is not eligible, the City must provide a reason for the ineligibility.

The City shall inform the employee if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the City determines that the leave is not FMLA-protected, the City will notify the employee.

### **UNLAWFUL ACTS BY EMPLOYERS**

FMLA makes it unlawful for any employer to:

- Interfere with, restrain, or deny the exercise of any right provided under FMLA;
- Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

### **ENFORCEMENT**

An employee may file a complaint with the U.S. Department of labor or may bring a private lawsuit against an employer.

FMLA does not affect any federal or state law prohibiting discrimination, or supersede any state or local law or collective bargaining agreement which provides greater family or medical leave rights.

**APPENDIX B**  
**DRUG AND ALCOHOL POLICY**

1. No employee shall use, possess, distribute, manufacture, or sell controlled substance or drug of abuse as defined in Ohio Revised Code SS 3719.01 and 3719.011 (hereafter referred to as drug or drugs); prescription medications taken pursuant to the instructions of a valid prescription are not drugs of abuse.
2. No employee shall use, possess, distribute, manufacture or sell alcohol while on the job.
3. No employee shall be under the influence of drugs and/or alcohol or a combination thereof while on the job, on City premises, or on or while using City equipment.
4. Any employee convicted of an offense under a criminal drug statute for an offense occurring within the workplace must report the conviction to the City Manager no later than five (5) working days after the conviction.
5. A violation of these rules is cause for disciplinary action up to and including termination of employment.
6. Recognizing that drug and alcohol abuse are treatable illnesses which should be dealt with initially by treatment and education, it is the City's policy to prevent and rehabilitate rather than terminate the employment of workers who are alcohol and/or drug dependent. No employee will be discharged for voluntarily seeking assistance for a substance abuse problem; however, co-occurring performance, attendance or behavioral problems may result in disciplinary action up to and including termination of employment. Employees are encouraged to use the Employee Assistance Program (EAP), but involvement in that program does not prevent the City from disciplining an employee if there are co-occurring performance, attendance or behavioral problems. Furthermore, involvement in the EAP does not preclude the City from discharging a probationary employee during the employee's original period of probation.
7. In furtherance of the goals set forth above, the City adopts the alcohol and drug testing policy and procedures which follow. The testing policy shall be implemented in a consistent, nondiscriminatory manner. All employees will be provided with a copy of the testing policy prior to its implementation and will be provided information concerning the impact of the use of alcohol and drugs on job performance. Employees and supervisors will be trained to recognize the symptoms of alcohol and drug abuse, impairment and intoxication.
8. Applicants for employment with the City who have been conditionally offered a position with the City, shall be required to submit to testing to determine the presence of alcohol and/or drugs. Pre-employment testing protocol shall be determined by the Civil Service Commission. Standards for the administration of the tests set forth in (I 1) of this policy are not applicable to pre-employment testing. An employee during the employee's original period of probation, who tests positive or otherwise violates this policy may be terminated.

9. All new employees will receive the policy and procedure information on their initial hire date. No employee shall be tested until this information is provided to the employee. A signed log sheet shall be filed in new and existing employee's personnel file indicating receipt of the policy and procedure.
10. Random drug testing will not be permitted under any circumstances. Drug and alcohol testing of employees may be administered only where there is reasonable suspicion to believe that the employee to be tested is impaired by the use of an alcoholic beverage and/or drugs, or in the event of a vehicular accident involving bodily injury or serious property damage, as determined by a supervisor based on standards established by the City.

This policy is not to be utilized for criminal law enforcement purposes. However, this policy does not prevent criminal law enforcement investigation of illegal activity. For example, an employee charged with operating a motor vehicle under the influence of alcohol and/or drugs of abuse (OVI) may be required to submit to testing as part of the criminal investigation and the procedures of this policy would not be applicable to that investigation. Furthermore, evidence derived in a criminal investigation, including drug and alcohol testing, may be used as evidence in a disciplinary proceeding.

The term "reasonable suspicion" shall for the purposes of this policy be defined as follows:

Aberrant or unusual on-duty behavior of an individual employee which:

- (a) Is observed on duty by another City employee, confirmed in writing by the observing employee, and whenever reasonably possible corroborated by the observation of a witness other than the person alleging the impairment. If a citizen complaint is brought, the complaint must be in writing, signed by the citizen and verified by the employee's supervisor. The employee suspected of impairment shall be permitted to contact a person of the employee's choosing by telephone, however, the inability of the employee to reach that person will not delay testing.
- (b) Is the type of behavior which is recognized and accepted as symptomatic of intoxication or impairment caused by drugs and/or alcohol.
- (c) To the satisfaction of the employee's supervisor and the City Manager, is not reasonably explained by other factors than impairment by drugs and/or alcohol. The term "City Manager" shall mean either the City Manager, Assistant City Manager, person(s) designated by the City Manager to act on the City Manager's behalf or authorized by law to act in the absence or disability of the City Manager.
- (d) Reports of drug abuse or abnormal behavior shall be forwarded immediately to the employee's supervisor. The supervisor shall investigate the report and document his findings. Reports which are not documented in writing by the employee's supervisor shall not constitute reasonable suspicion. No alcohol or drug testing may be conducted without authorization of the City Manager. The City Manager must document in writing, who is to be tested and why the test is ordered including the specific objective facts constituting reasonable suspicion

and the names of any witness or sources of information. A copy of this documentation shall be given to the employee. The employee must have the reasons for testing referral explained by a member of City management prior to referral for testing. As used in the previous sentence, a member of City management is a supervisor in the employee's division or a member of the City Manager's Office.

If the City Manager, after a review of the facts, also has a reasonable suspicion that the employee may be intoxicated or impaired, then by written order signed by the City Manager, the employee may be ordered to submit to a urine and blood test designed to detect the presence of alcohol and/or drugs. A verbal order may be issued by the City Manager with a written order to follow within 24 hours. If it is determined that a test is to be given, testing shall be made immediately after discussion with the member and Union representative, if available, but no more than one hundred twenty (120) minutes after the reasonable belief determination has been made by the City Manager, whichever is sooner.

Failure to follow any of the above steps shall result in the invalidation of the test results as if no tests were administered, and test results will not be used for disciplinary purposes. However, failure to follow the above steps does not prevent disciplinary action based upon other evidence.

Refusal to submit to testing after being properly ordered to do so may result in disciplinary action up to and including termination. As the employee is not under arrest during the testing process, an employee subject to testing should not be restrained or prevented from leaving during any part of the test process. However, an employee who fails to complete the test process is subject to disciplinary action up to and including termination.

Except as provided herein, testing shall be done in accordance with 49 CFR Part 40 as amended from time to time by a facility which is certified under Department of Health and Human Services (DHHS) standards and shall consist of tests which detect the presence of the following: Alcohol, Amphetamines, Cannabanoid (Marijuana) Metabolites, Cocaine Metabolites, PCP, Benzodiazepine, Barbiturates, Opiates, Methodone, and Propoxyphene.

The employee shall be transported to the drug testing site by a member of the City Manager's office or a person designated by the City Manager. After sample collection, the employee shall be transported home by a member of City Management or designee. The employee shall be relieved of duty, without pay from the time of arrival home. The employee remains on a paid status until his arrival at home. If drug testing results are negative, the employee shall be compensated for the period of leave of absence without pay unless other work rule violations are proven to have occurred.

Referral for drug testing, if approved, should normally occur within two hours of the supervisor's observation. In no case will more than four hours elapse from the

time of supervisor's observation to the time of sample collection; unavailability of a person whom the employee wishes to consult with prior to testing will not delay testing. Where more than four hours have elapsed, test results will be declared invalid and documentation shall be so noted by the City Manager. Invalidation of the test results does not prevent disciplinary action based on other evidence. Testing may be requested and performed during all shifts (24 hours a day; 7 days/week).

11. The following test procedure shall apply to tests administered to employees.

The City will request urine and blood samples for testing for controlled substances. Both samples shall be collected at the laboratory or health care facility specified by the City. Chain of custody standards as specified in the DHHS standards shall be followed. The City may request a blood test, urine test or a breath test for alcohol testing. If a breath test is requested, only breath testing instruments approved in Ohio Administrative Code (OAC) 3701-53-02 may be used. Breath testing will not be conducted by the Upper Arlington Police to protect the privacy of the employee.

In the event that a urine sample cannot be produced, or that a sufficient quantity cannot be produced, then the blood sample above shall be analyzed for all other drugs as specified in this procedure.

The employee shall not be observed when the urine specimen is given, unless the person conducting the collection has reason to believe that the donor may be attempting to compromise the integrity of the test. Stringent specimen alteration and/or substitution procedures will be followed by the sample collection site staff. Sample collection specimen containers shall be in sealed containers prior to use and after collection of specimen shall be sealed with evidence tape and labeled in the presence of the employee and person transporting the employee on behalf of the City.

The City shall choose the sample collection site and laboratory to be utilized for testing.

The following standards shall be used to determine what levels of detected substances shall be considered positive:

Initial test analyte	Initial test cutoff concentration	Confirmatory test analyte	Confirmatory test cutoff concentration
Marijuana metabolites	50 ng/mL	THCA <sup>1</sup>	15 ng/mL
Cocaine metabolites	150 ng/mL	Benzoyllecgonine	100 ng/mL
Opiate metabolites			
Codeine/Morphine <sup>2</sup>	2000 ng/mL	Codeine	2000 ng/mL
		Morphine	2000 ng/mL
6-Acetylmorphine	10 ng/mL	6-Acetylmorphine	10 ng/mL

<sup>1</sup>Delta-9-tetrahydrocannabinol-9-carboxylic acid (THCA).

<sup>2</sup>Morphine is the target analyte for codeine/morphine testing.

Initial test analyte	Initial test cutoff concentration	Confirmatory test analyte	Confirmatory test cutoff concentration
Phencyclidine	25 ng/mL	Phencyclidine	25 ng/mL
Amphetamines <sup>3</sup>			
AMP/MAMP <sup>4</sup>	500 ng/mL	Amphetamine	250 ng/mL
		Methamphetamine <sup>5</sup>	250 ng/mL
MDMA <sup>6</sup>	500 ng/mL	MDMA	250 ng/mL
		MDA <sup>7</sup>	250 ng/mL
		MDEA <sup>8</sup>	250 ng/mL
Alcohol	.04 of 1% or more by weight of alcohol in the subject's blood bloodtest no confirmatory test necessary; or		
	.04 grams or more by weight of alcohol per 210 liters of the subject's breath - breath test no confirmatory test necessary; or		
	.056 of 1 gram or more by weight of alcohol per one hundred milliliters of the subject's urine - urine test no confirmatory test necessary.		

#### DRUG SCREENING TEST CONFIRMATION

Alcohol For City employees that are required to have a commercial driver's license and bargaining unit employees in the Division of Fire, the following levels constitute a positive test: .04 of 1 % or more by weight of alcohol in the subject's blood - blood test no confirmatory test required; or .04 grams or more by weight of alcohol per 210 liters of the subject's breath - breath test no confirmatory test necessary; or .056 of 1 gram or more by weight of alcohol per one hundred milliliters of the subject's urine - urine test no confirmatory test necessary.

A test of .04 (blood alcohol level) or more is considered to be impairment in all cases; the impairment of employees registering below .04 is to be determined by an analysis of all relevant factors (ex. blood alcohol level, physical signs displayed by the employee, what the employee is required to do on the job, etc.)

<sup>3</sup>Either a single initial test kit or multiple initial test kits may be used provided the single test kit detects each target analyte independently at the specified cutoff.

<sup>4</sup>Methamphetamine is the target analyte for amphetamine/methamphetamine testing.

<sup>5</sup>To be reported positive for methamphetamine, a specimen must also contain amphetamine at a concentration equal to or greater than 100 ng/mL.

<sup>6</sup>Methylenedioxymethamphetamine (MDMA).

<sup>7</sup>Methylenedioxyamphetamine (MDA).

<sup>8</sup> Methylenedioxyethylamphetamine (MDEA).

Tests which are below the levels set forth above, with the exception of alcohol tests, shall be determined as negative. If test results are negative, all documentation regarding supervisor's observations and testing will be destroyed.

At the time the urine specimen is collected, sufficient quantity for two samples will be taken. The two samples will be sent to the laboratory to be tested at the employer's expense. In order to be considered positive, both samples must be tested separately, in separate batches and show positive results. The initial screening shall be done using RIA/EMIT Methodology and the confirmatory test shall be done using mass spectrograph -- gas chromatography methodology. All test results are to be reviewed by a toxicologist or physician before being released. No confirmatory test is necessary for alcohol screening.

A portion of the second sample will be stored in a separate container and shall be sealed in the presence of employer's representative and employee. Employer's representative and the employee will sign the evidence tape. This sample shall be made available to the employee for testing by a laboratory chosen by the employee. The employee's option of requesting an independent test by another laboratory must be exercised within ten (10) days of the employee's notification of positive test results and the laboratory selected must be DHHS certified with chain of custody standards followed. The sample shall be stored at the laboratory testing site until notified by the employee of testing instructions or for one year which ever is longer. The cost of testing this sample shall be borne by the employee.

All test results shall be treated as confidential to the extent allowed by law. All test results must be retained in a secure file separate and apart from the employee's personnel file. The City Manager, or designee shall communicate drug testing results to the employee and employee's supervisor and department head, and assure that results are destroyed in the case of negative test outcome. For a first time positive test, results will be disclosed to the employee, employee's supervisor and department head, and the City's Employee Assistance Program, with a provision for monitoring of compliance through the City Manager's Office. In the case of a second positive drug test, results will be disclosed to the employee, employee's supervisor and department head, and only those additional people with a specific need to know because of subsequent disciplinary action which may be taken. The results of any test may only be released to other persons, if the employee executes an appropriate release of information.

If the results of the tests administered by the employer on the two samples show that the employee while on duty, was positive: (a) The employee shall be given a copy of the laboratory report by the City Manager, or

designee before discipline is imposed. (b) The employee shall have the right to present the employer with different results from the test of the third sample conducted by a DHHS certified laboratory chosen by the employee. Failure of the employee to have a third test performed shall not be used against the employee as a basis for discipline. (c) The employer may discipline the employee after consideration of all tests presented provided: that any discipline imposed for the first offense in any 36 month period shall be held in abeyance pending completion by the employee of an approved substance abuse treatment program. In the event an employee enters a treatment program as a result of a positive drug test, a release of information authorization is to be completed by the employee so that the employer can monitor compliance. If the employee successfully completes such a program and is not disciplined for substance abuse for 36 months following the initial charge, the discipline shall be revoked and the employee's record cleared of the offense (subject to City Attorney review of the records as specified in (11) of this policy), and it shall not be used as a basis for any other disciplinary action in the future.

Notwithstanding the foregoing, an employee may be disciplined for the first positive drug test, if there are co-occurring work rule(s) violation(s) sufficiently serious to warrant the action. The second positive drug test shall result in disciplinary action up to and including job termination. Probationary employees may be discharged for any violation of this drug and alcohol policy and need not be offered rehabilitation in lieu of discipline.

12. Employees who seek voluntary assistance for drug or alcohol abuse prior to an incident resulting in a reasonable suspicion test may not be disciplined for seeking such assistance. All requests from employees for assistance shall remain confidential. Employees shall be entitled to take accrued sick leave, vacation, compensatory time or leave without pay during absences required as part of the rehabilitation process. Any leave of absence is governed by C.O. S 155.10.
13. Unless the City has complied substantially with all safeguards and procedures specified herein are followed, test results may not be relied upon or serve as a basis of any discipline or referral to rehabilitation. Minor or trivial deviations that do not affect the integrity and reliability of the testing process shall not invalidate the test results.
14. This drug and alcohol testing program was initiated at the request of the City. The City assumes sole responsibility for the administration of this policy and shall be solely liable for any legal obligations and costs arising out of the provisions and /or application of this collective bargaining agreement relating to drug and alcohol testing. The Union shall be held harmless for the violation or alleged violation of any employee rights arising from the administration of the drug and alcohol testing program.
15. The parties recognize that during the life of this contract, there may be improvements in the technology of testing procedures which provide more accurate testing. In that event, the

parties will bargain in good faith whether to amend this procedure to include such improvements. If the parties are unable to agree, the procedure shall remain unchanged.

16. This Policy is in no way intended to supersede or waive any Constitutional rights that the employee may be entitled to under the Federal or State Constitutions.
17. For the purposes of any disciplinary process Article 8 of the collective bargaining agreement shall be followed.

**MEMORANDUM OF UNDERSTANDING**

**SPECIAL PROVISIONS REGARDING ELIMINATION OF BATTALION CHIEF  
RANK**

Whereas the City intends to eliminate the rank of Battalion Chief from the rank structure of the City Fire Department; and,

Whereas the City wishes to reorganize the duties and responsibilities of the ranks within the City Fire Department as a result of the elimination of the rank of Battalion Chief; and,

Whereas the longstanding service of the Battalion Chiefs is acknowledged and appreciated;

The following terms and conditions shall be applicable to the aforesaid elimination of the rank of Battalion Chief from, and reorganization of, the City Fire Department:

**Section 1.** The City shall eliminate the rank of Battalion Chief as of the earlier of either, the end of the pay period that is paid with the last regular pay day in December, 2014 (December 19, 2014), or the first day of the first full pay period after two Battalion Chiefs have voluntarily separated from the City. All positions in that rank are automatically abolished as of that date, whether occupied or vacant. As noted in 12.3(F) the City may abolish the Battalion Chief positions without having to fill the positions first. This MOU supersedes any civil service requirements for purposes of abolishing these positions ( Civil Service Rule 11 B. (1), (2) (4) (5)) and any substantially similar applicable state law provision with the exception of bumping under ORC 124.37 and recall rights for any member who is bumped under ORC 124.37. For purposes of this MOU, voluntary separation from the position of Battalion Chief shall include: resignation; retirement from employment with the City; a justified termination of employment by the City; death; any other separation that the member undertakes voluntarily. Notwithstanding Section 12.5 of the collective bargaining agreement between the City and IAFF Local 1521, there shall be no civil service appeal for the abolishment of the Battalion Chief positions or the resulting bumping or recall(s).

**Section 2.** As each Battalion Chief separates from service in 2014, the City shall assign a Captain to serve as Shift Commander to that Battalion Chief's shift. Shift Commander is an assignment not a rank and may be assigned to any Captain.

**Section 3.** If a Battalion Chief occupies one of the Battalion Chief positions on the date it is abolished as set forth in Section 1 of this MOU, he shall be permitted to bump to a lower rank in the City Fire Department in accordance with applicable Civil Service Rules. The Battalion Chief who has bumped to the rank of Captain shall therefore receive any payouts or other benefits that are assigned to the rank of Captain. For example, if two Battalion Chiefs remain by December 19, 2014 and bump to the rank of Captain, their payouts for that year will be at the Captain's rank. The City will pay a Battalion Chief that separates from service prior to July 1, 2014, as follows:

Incentive: The banks of time that the Battalion Chief would receive in the pay period that includes January 1, 2015 shall be paid to any Battalion Chief that voluntarily separates from

employment with the City prior to July 1, 2014. This incentive shall not apply if the Battalion Chief was terminated for just cause or was promoted to another position in the City. The sick leave bank portion of this incentive is only triggered if the Battalion Chief retires from service with the City prior to July 1, 2014.

**Section 4.** The fourteen (14) day work period (FLSA cycle) referenced in Article 16 shall not be implemented until the sooner of (a) the first full pay period following the date that at least two of the current Battalion Chiefs have voluntarily separated from employment with the City, or (b) the pay period that includes December 31, 2014.

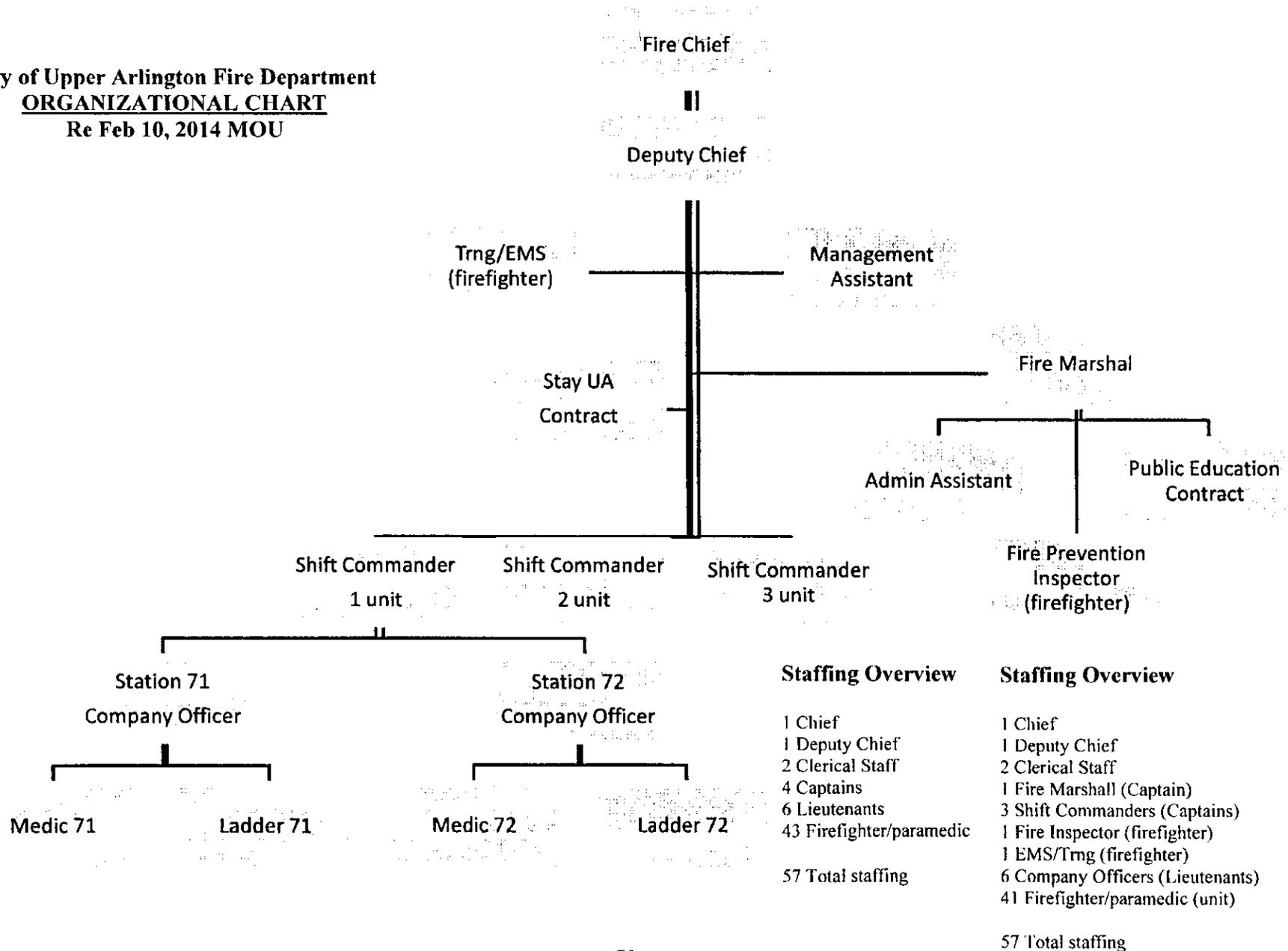
**Section 5.** The terms of this Memorandum of Understanding, to the extent they may differ from or conflict with provisions of R.C. Chapter 124, including, but not limited to R.C. 124.37, shall supersede the provisions of said statutes.

**Section 6.** The City and the Union also acknowledge that the City intends to appoint a Deputy Fire Chief whose duties will be determined solely by the City and who will not be in the bargaining unit. However, it is also understood that while the City may assign the Deputy Chief to act in the place of the Chief in his absence, if a Captain is assigned to periodically act in place of the Chief, that shall not cause the Captain to be ineligible to be a member of the bargaining unit.

**Section 7.** The attached draft organizational chart reflects the City's current reorganizational plan for the Fire Department. The parties recognize that such plan may be modified by the City prior or subsequent to the effective date of the reorganization. It is understood that the Union, through the existing labor relations process, may seek information from and provide input to the City regarding said reorganization.

**Section 8.** The wage change in 2016 may be adjusted to 2.75 percent, as shown in Exhibit A if the FOP proposal prevails in the 2014 Conciliation report.

**City of Upper Arlington Fire Department**  
**ORGANIZATIONAL CHART**  
**Re Feb 10, 2014 MOU**



**Exhibit A**

**Next page**

APPENDIX A TO UPPER ARLINGTON AND IAFF LOCAL 1526 CBA  
2013-MED-10-1275

<b>2013</b>				
<b>Firefighter</b>	<b>Step A</b>	<b>Step B</b>	<b>Step C</b>	<b>Step D</b>
Biweekly - 53	1,510.07	1,964.97	2,118.51	2,381.30
Hourly - 53	14,2459	18,5375	19,9859	22,4651
Biweekly - 40	1,638.19	2,131.83	2,298.31	2,583.44
Hourly - 40	20,4774	26,6479	28,7289	32,2930
<b>Lieutenant</b>				
Biweekly - 53				2,702.86
Hourly - 53				25,4987
Biweekly - 40				2,932.34
Hourly - 40				36,6543
<b>Captain</b>				
Biweekly - 53				3,067.76
Hourly - 53				28,9411
Biweekly - 40				3,328.26
Hourly - 40				41,6033
<b>Battalion Chief</b>				
Biweekly - 53				3,481.78
Hourly - 53				32,8470
Biweekly - 40				3,777.48
Hourly - 40				47,2185

2.5% Base increase + 2% Pension Pickup Swap

1% Base increase + 2% Pension pickup swap

<b>January 1, 2014</b>				
<b>Firefighter</b>	<b>Step A</b>	<b>Step B</b>	<b>Step C</b>	<b>Step D</b>
Hourly - 53	14.6733	19.0936	20.5855	23.1390
Hourly - 40	21.0917	27.4473	29.5907	33.2618
<b>Lieutenant</b>				
Hourly - 53				26.2636
Hourly - 40				37.7539
<b>Captain</b>				
Hourly - 53				29.8094
Hourly - 40				42.8513
<b>Battalion Chief</b>				
Hourly - 53				33.8324
Hourly - 40				48.6351

The 5% increase for Captains that is tied to elimination of Battalion Chief rank is incorporated into the 2015 pay scale.

2% Pension pickup swap for pay period including Jan 2017

2.5% Base increase for FF & Lt and 5% addl for Capt +

<b>January 1, 2015</b>				
<b>Firefighter</b>	<b>Step A</b>	<b>Step B</b>	<b>Step C</b>	<b>Step D</b>
Hourly - 53	15.3336	19.9528	21.5119	24.1803
Hourly - 40	22.0408	28.6824	30.9223	34.7586
<b>Lieutenant</b>				
Hourly - 53				27.4455
Hourly - 40				39.4528
<b>Captain</b>				
Hourly - 53				32.6413
Hourly - 40				46.9222

### January 1, 2016

<u>Firefighter</u>	<u>Step A</u>	<u>Step B</u>	<u>Step C</u>	<u>Step D</u>
Hourly - 53	16.0236	20.8507	22.4799	25.2684
Hourly - 40	23.0327	29.9732	32.3138	36.3227
<u>Lieutenant</u>				
Hourly - 53				28.6806
Hourly - 40				41.2282
<u>Captain</u>				
Hourly - 53				34.1101
Hourly - 40				49.0337

### Payperiod Including 1/1/2017

<u>Firefighter</u>	<u>Step A</u>	<u>Step B</u>	<u>Step C</u>	<u>Step D</u>
Hourly - 53	16.3441	21.2677	22.9295	25.7738
Hourly - 40	23.4933	30.5726	32.9601	37.0492
<u>Lieutenant</u>				
Hourly - 53				29.2542
Hourly - 40				42.0527
<u>Captain</u>				
Hourly - 53				34.7923
Hourly - 40				50.0144

If 2.75% Increase + 2% Pension Pickup Swap

### MOU 2016

<u>Firefighter</u>	<u>Step A</u>	<u>Step B</u>	<u>Step C</u>	<u>Step D</u>
Hourly - 53	16.0620	20.9005	22.5337	25.3289
Hourly - 40	23.0878	30.0449	32.3911	36.4096
<u>Lieutenant</u>				
Hourly - 53				28.7492
Hourly - 40				41.3268
<u>Captain</u>				
Hourly - 53				34.1917
Hourly - 40				49.1510

### MOU Payperiod 1/1/2017

<u>Firefighter</u>	<u>Step A</u>	<u>Step B</u>	<u>Step C</u>	<u>Step D</u>
Hourly - 53	16.3832	21.3186	22.9844	25.8354
Hourly - 40	23.5495	30.6458	33.0390	37.1378
<u>Lieutenant</u>				
Hourly - 53				29.3241
Hourly - 40				42.1533
<u>Captain</u>				
Hourly - 53				34.8755
Hourly - 40				50.1341