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05/08/2014

AGREEMENT

BETWEEN

THE CITY OF FREMONT, OHIO

AND

LOCAL 328, INTERNATIONAL
ASSOCIATION OF FIREFIGHTERS,
AFL-CIO

CASE NO. 2013-MED-10-1428

JANUARY 1, 2014
UNTIL
DECEMBER 31, 2016

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ARTICLE 1
AGREEMENT

Section 1.1. Parties to the Agreement. This Agreement is between the City of Fremont, Ohio, hereinafter referred to as the “City,” and Local Union 328 of the International Association of Firefighters, AFL-CIO, hereinafter referred to as the “Union.”

Section 1.2. Savings Clause. Should any part of this Agreement or any provisions contained herein be declared invalid by operation or law by a tribunal of competent jurisdiction, such invalidation of such part or provision shall not invalidate the remaining portions hereof and they shall remain in full force and effect.

Section 1.3. Modification of Agreement. Except as contained in Section 22.3 of this agreement regarding mid-term bargaining, the express provisions of this Agreement may be changed only by mutual agreement between the parties, reduced to writing, dated and signed by the Mayor on behalf of the City, and on behalf of the Union, by the Negotiations Committee.

Section 1.4. Precedence of Agreement. The terms of this Agreement shall be binding following the approval of the City Council only for the Agreement period and may not be amended or altered by City Ordinance or Resolutions.

Section 1.5. Conformance with Law. In accordance with the provisions of Ohio Revised Code Section 4117.10(A), the following contract articles and/or sections thereof specifically supersede and/or prevail over those subjects described in the Ohio Revised Code, Ohio Administrative Code, City Ordinance, and/or the Rules and Regulations of the Civil Service Commission of the City of Fremont as follows:

<u>Contract Article</u>	<u>Superseded/Prevails Over</u>
Article 8, Hours of Work/Overtime	O.R.C. 4111.03
Article 12, Probationary Period	O.R.C. 124.27 O.R.C. 123: 1-19-01 through 123: 1-19-05
Article 13, Layoff and Recall	O.R.C. 124.32, 124.321 through 124.328 O.A.C. 123: 1-41-01 through 123: 1-41-23
Article 14, Holidays	O.R.C. 325.19
Article 15, Vacations	O.R.C. 9.44, 325.19

Article 16, Miscellaneous Leave

O.R.C. 124.38 through
124.387; 124.39,
124.391;
O.A.C. 123: 1-34-01,
123: 1-34-08,
123: 1-34-09

Article 17, Injury Leave

O.A.C. 123: 1-33-02
through 123: 1-33-17

Article 23, Promotion

O.R.C. 124.45 through 124.49

ARTICLE 2

STATEMENT OF PURPOSE

Section 2.1. The intent and purpose of the parties to this Agreement is to provide an orderly Employer-employee relationship that serves the best interests of the citizens of Fremont and the public in general, to establish a procedure for the peaceful resolution of grievances, to set forth the entire agreement of the parties with respect to wages, fringe benefits, and working conditions, and to prevent interruptions of work and interference with the efficient operation of the Fire Department.

ARTICLE 3

RECOGNITION, DUES DEDUCTION AND FAIR SHARE FEE

Section 3.1. Recognition. The City recognizes the Union as the sole and exclusive representative for all full-time employees in the bargaining unit as to all matters concerning their wages and terms and conditions of employment. For purposes of this Agreement, the bargaining unit shall consist of employees in the classifications of Firefighter, Fire Lieutenant, and Fire Captain.

Section 3.2. Dues Deduction. While this Agreement is in effect, the City will deduct once each month the regular monthly Union dues and assessments from the wages of employees included in the bargaining unit who individually and voluntarily authorize and direct such deductions in writing. The authorization and direction shall be revocable by giving the City notice in writing. The Union shall hold the City harmless from any liability arising out of any action by it or omitted by it in compliance with or in an attempt to comply with the provisions of this Section. Such dues and assessments shall be transmitted by the City to the Union within the first calendar week after such deductions are made.

Section 3.3. Fair Share Fee.

A. Effective January 1, 2004 subject to E. below, all newly hired employees of the Fremont Fire Department, in the bargaining unit, who are not or who do not become members in good standing of Local 328, International Association of Fire Fighters, shall pay a fair share fee to the Union effective the end of the employee's original probationary period. When applicable, Local 328 shall certify to the City annually during the term of the Agreement the

fair share fee for non-member employees of the Fire Department. The monthly fair share fee amount shall be certified to the City Auditor by the Union.

- B. The fair share fee shall be deducted by the City and remitted during the same period as Union dues are remitted, at no cost to the Union.
- C. The deduction of the fair share fee from the earnings of the employee shall be automatic and does not require a written authorization for payroll deduction. Payment of fair share fees shall be made in accordance with this Article and with the provision of Ohio Revised Code 4117.09(C).
- D. Local 328 IAFF will indemnify and save the City harmless from any action commenced by an employee against the City, or the City and the Union jointly, arising from the deduction of the fair share fees as agreed in the Article.
- E. This section shall not become applicable until the Union requests a fair share fee deduction and produces a constitutionally valid Challenge And Rebate Procedure.

ARTICLE 4 **REPRESENTATION**

Section 4.1. Union Representation. The City agrees that no more than two (2) professional Union representatives shall be admitted to the City's facilities and work sites during working hours upon reasonable notice to the City and the Fire Chief or his designee. Such visitations may be for the purpose of ascertaining whether or not this Agreement is being observed by the parties, to participate with the City in the discussion of problems, to process and participate in the adjustment of grievances, and to attend other meetings. The Union agrees that such activities shall not interfere with the normal work duties of employees except to the extent authorized by a specific provision in this Agreement.

Section 4.2. Meetings With the City. The Safety-Service Director and/or Fire Chief or their designated representative will meet as often as necessary upon request of the Union with representatives of the professional staff of the Union (not more than two [2] professional representatives affiliated with Local 328) at mutually-agreed times and places. The purposes of such meetings shall be to:

- A. Discuss the administration of this Agreement;
- B. Discuss grievances which have not been processed beyond the pre-arbitration steps of the grievance procedure when such discussions are mutually agreed to by the parties;
- C. Disseminate general information of interest to the parties; and

- D. Give the Union representatives the opportunity to share the views of their members and/or make suggestions on subjects of interest to the bargaining unit, including alleged inequities in the treatment of employees represented by the Union.

The Union shall submit an agenda of items to be discussed to the Safety-Service Director and the Fire Chief at least five (5) days in advance of the requested meeting when possible.

As a courtesy and to facilitate the adjustment of work schedules, the Union representatives will personally notify immediate supervisors of the dates and times of such meetings, immediately upon the parties reaching mutual agreement as to the date and time of any such meeting.

Written responses promised by the Safety-Service Director or the Fire Chief or their representatives will be submitted to the Union's top representative who attended such meeting within fourteen (14) calendar days after such meeting, unless the parties mutually agree to a time extension.

Should these meetings start before or extend beyond the Union representatives' regularly scheduled straight-time hours on the day in question, the City shall not be obligated to pay for such additional hours.

This Section 4.2 refers to the formal meetings between the City's and the Union's representatives. Nothing in this Section 4.2 is intended to prohibit additional, informal meetings between the City and the Union representatives where there is mutual agreement of the necessity of such meetings.

Section 4.3. Time For Conducting Representation Activities. Representation activities necessary to further the purpose of this Agreement that are specified herein are recognized as a proper part of the conduct of the City's business and shall normally take place during duty hours, provided that every effort shall be made to not interfere with the normal operation of the Fire Department. Upon giving reasonable notice to and receiving permission from the Fire Chief or his designee, employees representing the Union in these activities shall be given sufficient time during duty hours, without loss of pay or other benefits, to perform these functions; however, such privilege will not be abused by the Union representatives, nor will permission be unreasonably withheld by the City.

Section 4.4. Place For Conducting Representation Activities. Meetings of the committee of the Union will be permitted on City property when and where work is not interrupted by such meetings and when such meetings are not held during the regularly scheduled daytime hours of the participants on the day in question.

Section 4.5. Negotiating Time. The City agrees to allow three (3) employee Union representatives and not more than two (2) professional representatives affiliated with Local 328 to serve on the Union Bargaining Committee for the time spent in actual negotiations with the City to renegotiate this Agreement pursuant to Article 27. Where such meetings occur during such employee Union representatives' regularly scheduled straight-time hours on the days in question, they shall be attended without loss of pay or benefits. The third employee representative will be allowed only when there is not created an overtime situation. The Union will notify, in writing, the City and the Fire Chief or his designee of the names and normal shift schedules of representatives selected for this

purpose at least three (3) calendar weeks prior to the first scheduled negotiation date, or as soon thereafter as reasonably possible.

Section 4.6. Copies of Ordinances and Rules and Regulations. The City agrees to provide the Union with a copy of any ordinance relating to the Fire Department which may hereafter be passed by the City Council.

ARTICLE 5 **NONDISCRIMINATION**

Section 5.1. The Employer agrees not to restrain or coerce any employee because of Union membership or because of any authorized employee activity in an official capacity on behalf of the Union.

Section 5.2. The Union agrees not to interfere with the rights of employees to not become members of the Union, and there shall be no unlawful disparate treatment, restraint or coercion by the Union or its representatives against any employee exercising the right to abstain from membership in the Union or involvement in Union activities.

Section 5.3. The Employer and the Union agree not to unlawfully discriminate against any bargaining unit employee because of that individual's race, color, religion, sex, pregnancy, national origin, disability, age, genetic history, ancestry, or military status or veteran status.

If an individual and/or the Union file a grievance alleging a violation of Article 5 while the same or similar allegation of discrimination is being investigated or otherwise processed by an administrative agency such as the OCRC or the EEOC or by a court of competent jurisdiction, such grievance shall be held in abeyance pending the final resolution of the matter by the administrative agency or the courts, whichever is applicable.

ARTICLE 6 **MANAGEMENT RIGHTS**

Section 6.1. Right to Manage. The City reserves the exclusive right to determine the mission of and manage the business of the Fire Department and to direct the employees in the discharge of their duties. The right to manage and direct the employees includes the right to hire, suspend, or discharge for proper and just cause, number of employees required and the right to control the City's property. The City further reserves all rights of management as set forth in Section 4117.08, Ohio Revised Code. In the exercise of the rights, the City shall observe and be bound by all the provisions of this Agreement.

Section 6.2. Right to Establish Work Rules. The Union recognizes the exclusive right of the City to establish reasonable work rules. Such rules may be established by the Safety-Service Director and/or the Fire Department or through ordinance by the City Council. A copy of any proposed change in the Rules and Regulations of the Fremont Fire Department shall be provided to the Union in advance of its implementation, and the Union shall be afforded an opportunity to discuss such

proposed change with the Fire Chief or his designee, it being understood that the final decision as to any such change shall rest with the Fire Chief and/or the Safety-Service Director. Any dispute with respect to interpretation of the work rules is subject to the grievance procedure.

Section 6.3. Right to Determine Work Schedules. The City shall have the right to determine schedules of work and to establish the methods and processes by which such work is performed.

Section 6.4. Right to Schedule Overtime. The City has the right to schedule overtime work as required in a manner most advantageous to the City and consistent with the requirements of municipal employment, the public interest and the existing Agreement.

Section 6.5. Incidental Duties. It is understood by both parties that every incidental duty and responsibility connected with a position is not always specifically enumerated in a job description. Nevertheless, it is intended that all duties related to firefighting, fire rescue activities, and fire prevention activities, as well as normal maintenance activities, shall be performed by the employee as required.

ARTICLE 7

NO STRIKE — NO LOCKOUT

Section 7.1. Inasmuch as this Agreement provides machinery for the orderly resolution of grievances, including resolution by an impartial third party, the City and the Union recognize their mutual responsibility to provide for uninterrupted services to the citizens of Fremont. Therefore:

- A. The Union agrees that neither it, its officers, agents, representatives, or any employees covered by this Agreement will authorize, instigate, cause, aid, condone, or participate in any strike or work stoppage for the duration of this Agreement. When the City notifies the Union by telephone, verified by certified mail, that any bargaining unit employee is engaged in any strike activity, the Union shall immediately order such employee to return to work. Upon the Union's fulfillment of this requirement, the City shall hold the Union harmless from any liability for violating this Section, provided the Union has not authorized, instigated, caused, aided, condoned, or participated in any strike or work stoppage prohibited by this Article.
- B. The City agrees that neither it, its officers, agents, or representatives, individually or collectively, will authorize, instigate, cause, aid, or condone any lockout of members of the Union as a result of a labor dispute with the Union.

ARTICLE 8

HOURS OF WORK AND OVERTIME

Section 8.1. No Guarantee. This Article is intended to define the normal hours of work and to provide the basis for the calculation and payment of overtime. It shall not be construed as a guarantee of hours of work per day or per week, or of days of work per week.

Section 8.2. Regular Duty Hours. The regular assigned duty hours for firefighters working twenty-four (24) hour shifts under this Agreement are an average of fifty (50) hours per week within a work period (tour of duty) of seven (7) to twenty-eight (28) days, as established by the City. This average workweek shall be accomplished by the inclusion in a firefighter's regular shift schedule a twenty-four (24) hour work reduction day off, to be scheduled at the discretion of the City, every four (4) weeks. Reduction days off will be picked by seniority and upon the approval of the Fire Chief. Reduction days off picks will be blocked only for instances of training, continuing education, or for probationary employees.

Section 8.3. Distribution of Overtime. The amount of overtime necessitated by call-back work and the employees required to work such hours shall be established by the City. Consistent with this principle, the Fire Department will rotate overtime opportunities among qualified full-time employees on the overtime roster, beginning in each case with the employee in the classification in which the overtime is being worked who has the least aggregate hours worked and refused. While the classification in which the overtime is being worked in most cases will be that of firefighter, it is agreed that when there is no fire officer (Captain or Lieutenant) on duty and department manning requirements mandate that another employee be called in, the classification in which the overtime is being worked will be that of an officer (Captain or Lieutenant). In the event an officer cannot fill the overtime, Section 26.4 will be utilized.

An overtime roster will be posted and maintained by the department, and shall be made available to the Union upon request. An employee who is offered but refuses an overtime assignment, shall be charged on the roster with the amount of overtime refused. Any refusal of an overtime opportunity, to be charged on the roster, must be by direct personal communication between the employee to be so charged, and the supervisor or officer on duty responsible for making such offer.

In the event that there is an error in the distribution of overtime under this Section, the sole remedy shall be the requirement that the employee(s) adversely affected by the distribution error be given the next available overtime opportunity and such additional overtime opportunities as may be necessary to restore approximate equalization.

Section 8.4. No Pyramiding. There shall be no duplication or pyramiding in the computation of overtime or other premium wages. Nothing in this Agreement shall be construed to require the payment of overtime and other premium pay more than once for the same hours worked, except in the case of holiday and call-back pay which is regulated by ordinance.

Section 8.5. Call-Back Pay. An employee who is assigned to work by the City during hours outside his regularly scheduled straight-time hours shall be paid only for the actual hours worked at the applicable hourly rate of pay where such additional hours abut the employee's regularly-scheduled straight-time hours on the day in question. An employee who is called in during hours outside his regularly scheduled straight-time hours of work which do not abut his regularly scheduled hours of work on the day in question shall receive a minimum of four (4) hours pay at his applicable hourly rate of pay. Training or meetings on off-duty time shall receive a minimum of two (2) hours pay at his applicable hourly rate of pay. Call back for an emergency assignment on off-duty time shall receive a minimum of four (4) hours pay at his applicable hourly rate.

Section 8.6. Basis For Computing Overtime. Overtime compensation shall be based on one and one-half (1½) times the employee's regular straight-time hourly rate of pay (forty [40] hour equivalent) for actual hours worked in excess of the normal twenty-four (24) hour duty day. The regular straight-time hourly rate of pay shall be the employee's biweekly salary, as set forth in Section 26.1, divided by 80.

Section 8.7. Exchange of Shifts. Employees shall have the right to temporarily exchange shifts or portions of shifts when the change does not interfere with the operation of the Fire Department, and subject to the approval of the Fire Chief or his designee. The Fire Chief or his designee shall not unreasonably deny such temporary exchange of shifts.

Temporary exchange of shifts may be conducted in extenuating circumstances. The exchange of shifts shall not result in the payment of overtime to the parties involved.

Section 8.8. For purposes of this article, extenuating circumstances is defined as circumstances beyond the employee's control.

ARTICLE 9 **GRIEVANCE PROCEDURE**

Section 9.1. Definition of Grievance. The word "grievance" as used in this Agreement refers to a claim by an employee covered by this Agreement that the City has violated a specific provision of this Agreement.

Section 9.2. Who May File. A grievance, under this procedure, may be brought by any non-probationary employee covered by this Agreement. Where a group of employees desire to file a grievance involving a situation affecting each employee in the same manner, one (1) member selected by such group will process the grievance.

Section 9.3. Election of Remedies. Nothing in Article 9 or Article 10 of this Agreement is intended to deny employees any rights available at law to have redress to their legal rights. However, once an employee elects as his remedy the provisions under the Ohio Revised Code, he is thereafter denied the remedy of the Grievance Procedure and Arbitration provided herein. The parties agree that the Grievance Procedure, including arbitration, is the exclusive remedy for resolving disputes of the negotiated provisions of this Agreement.

Section 9.4. Grievance Committee. The Union shall designate the official Union Grievance Committee consisting of not more than three (3) members of the bargaining unit, and shall notify the City, in writing, as to the membership of this committee.

Section 9.5. Steps in Grievance Procedure. The following are the implementation steps and procedures for handling of employees' grievances:

A. **Preliminary Steps:**

1. An employee having a grievance will first attempt to resolve it informally with his immediate supervisor at the time the incident giving rise to the grievance occurs. At this step, there is no reason to put the grievance in writing, no report needs to be submitted by the supervisor (unless the City requires that such a report be made for its own use) and no Union representative need be present.
2. If the employee is not satisfied with the response from his immediate supervisor, he shall present the grievance in writing to the Grievance Committee within ten (10) calendar days of the event or circumstances giving rise to the grievance, as per Section 9.6.
3. The Union Grievance Committee, upon receipt of a written and signed petition, shall determine if a grievance exists. If, in the opinion of the Grievance Committee no grievance exists, no further action is necessary.

B. **Step One — Assistant Chief or Fire Chief:**

1. If the Union Grievance Committee determines that a grievance exists, it shall present the grievance in writing, together with a written report of the findings of the Grievance Committee, to the Assistant Chief or Fire Chief within ten (10) working days after the event or circumstances giving rise to the grievance.
2. An oral discussion will be held between the employee and Assistant Chief or Fire Chief. The grievant may be accompanied by the chairman of the Grievance Committee. Such discussion should normally take place within five (5) working days following the employee's request for a meeting.
3. At the conclusion of this oral discussion, the Assistant Chief or Fire Chief will respond to the grievant and the Grievance Committee in writing within five (5) working days after this meeting.

C. **Step Two — Safety-Service Director:**

1. Should the grievance not be satisfied with the answer he received in Step One, within five (5) working days after his receipt thereof, he may carry the grievance in an original and three (3) copies to the Safety-Service Director along with three (3) copies of the report of the Grievance Committee and of the City's answer at Step One. The grievance must be signed by the employee/grievant in order to be processed at this step or beyond.
2. The Safety-Service Director shall hold a meeting within five (5) working days following the employee's request for a meeting. At this meeting, the employee may be accompanied by the chairman of the Grievance Committee.

3. At the conclusion of the meeting, the Safety-Service Director will respond to the grievant and the Grievance Committee in writing within ten (10) working days after the date of this meeting. Such response will grant or deny the grievance.

Section 9.6. Time Limits. No grievance shall be entertained or processed unless it is submitted within ten (10) working days after the first occurrence of the event giving rise to the grievance. If a grievance is not presented within the time limits set forth above, it shall be considered "waived." If a grievance is not appealed to the next step within the specified time limit or any agreed extension thereof, it shall be considered settled on the basis of the City's last answer. If the City does not answer a grievance or an appeal thereof within the specified time limits, the grievant and the Union may elect to treat the grievance as denied at that step and immediately appeal the grievance to the next step in accordance with the procedure set forth in this Article. Any time limit set forth in the Article may be extended by mutual agreement in writing.

Section 9.7. Attendance at Grievance Meetings. In each step of the Grievance Procedure outlined in Section 9.5, certain specific representatives are given approval to attend the meetings therein prescribed. It is expected that, in the usual grievance, only the primary representative will be 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 to have other representatives not specifically designated in attendance. Therefore, it is intended that the Union may bring in additional representatives to any meeting in the Grievance Procedure, but only upon advance mutual agreement among the parties specifically designated to participate at that step.

Section 9.8. Grievance Form. The City and the Union shall develop jointly a grievance form. Such forms will be supplied by the City. The form is to be prepared in triplicate. Copies of the completed form, including the action taken, will be distributed as provided in Section 9.5.

The jointly developed grievance form will be made readily available to all employees covered by this Agreement.

The appropriate officer of the City will assign a consecutive number to each grievance and will maintain a log book available upon request to the Union to account for each number assigned.

Section 9.9. Definition of Working Days. For the purpose of counting time, "working days" as used in this Article shall mean the days Monday through Friday, exclusive of holidays that pursuant to this Agreement are observed on Monday through Friday.

Section 9.10. Right of Grievant to Have Representative Present. An employee with a grievance who chooses that his representative attend meetings or discussions, may do so at each step of the grievance procedure during regularly assigned working hours without loss of pay or time to the representative provided:

- A. An "emergency" situation does not exist requiring their presence at their assigned work stations; and

- B. Arrangements have been made and approved by their supervisor to have their assigned work area properly “covered” during their absence. It is expected that the privilege will not be abused and that approval will not be unreasonably withheld.

ARTICLE 10 **ARBITRATION**

Section 10.1. Appeal to Arbitrator. Should a grievant, after receiving the written answer to his grievance at Step Two of the Grievance Procedure, still feel that the grievance has not been resolved to his satisfaction, he may, upon approval of the Union, request that it be heard before an arbitrator in those cases where the grievance involves the interpretation or application of the specific provisions of this Agreement, and is therefore, arbitrable. The Union must make written application to the Safety-Service Director for arbitration within five (5) working days of its receipt of the written answer from the Safety-Service Director at Step Two. The decision as to whether any grievance will be pursued to arbitration shall be in the sole discretion of the Union.

Section 10.2. Selection of Arbitrator. Within fifteen (15) working days following a decision by the Union to appeal a grievance to arbitration, a designated representative of the Union and representative of the City will consult and attempt to select an impartial arbitrator by mutual agreement. In the event these representatives cannot reach agreement on an arbitrator, by joint letter the parties will request the Federal Mediation and Conciliation Service to submit a panel of nine (9) Ohio domiciled arbitrators who are members of the National Academy of Arbitrators, from which the City and the Union representatives will select one (1) by mutual agreement. Each party has the right to reject one panel in its entirety. If agreement cannot be reached as to one (1) mutually acceptable arbitrator from the panel, the representatives of the parties shall alternately strike names from the list with the party who requested arbitration striking first. The person whose name remains shall be the arbitrator and he shall be jointly notified by the parties of his selection.

Section 10.3. Authority of Arbitrator. The arbitrator shall have no right to amend, modify, nullify, ignore, add to, or subtract from the provisions of this Agreement. He shall only consider and make an award with respect to the specific issue submitted to him in writing by the City and the Union, and shall have no authority to make an award on any other issue not so submitted to him, provided that more than one grievance may be submitted to the same arbitrator if both parties mutually agree in writing. In the event the arbitrator finds a violation of the terms of this Agreement, he shall be empowered to fashion an appropriate remedy. The arbitrator shall be without power to make an award contrary to or inconsistent with or modifying or varying in any way the application of laws and rules and regulations having the force and effect of law. No liability shall accrue against the City for a date prior to the date the grievance was presented in writing. The arbitrator shall submit in writing his decision within sixty (60) days following the close of the hearing or the submission of briefs by the parties, whichever is later, unless the parties agree to an extension thereof. The decision shall be based solely upon his interpretation of the meaning or application of the express terms of this Agreement to the fact of the grievance presented. The decision of the arbitrator shall be final and binding.

Section 10.4. Costs of Arbitration. The costs of the services of the Federal Mediation and Conciliation Service in providing a panel or panels, the costs of any proofs produced at the direction of the arbitrator, the fee of the arbitrator and the rent, if any, for the hearing room shall be borne by the losing party. Where the arbitrator's award is not consistent with the prayer sought by either party, the above costs shall be borne equally by the parties. The expenses of any non-employee witness shall be borne, if at all by the party calling them. The fees of the court reporter shall be paid by the party asking for one; such fees shall be split equally if both parties desire a reporter or request a copy of any transcript. Any employee whose attendance is necessary for such hearing shall not lose pay or any benefits to the extent such hearing hours are during his normally scheduled working hours on the day of the hearing.

Section 10.5. The question of arbitrability of a grievance may be raised by either party on the grounds that the matter is non-arbitrable or beyond the arbitrator's jurisdiction. The first question to be placed before the arbitrator will be whether or not the alleged grievance is arbitrable. If the arbitrator determines the grievance is within the purview of arbitrability, the alleged grievance will be heard on its merits before the same arbitrator.

ARTICLE 11 **WAIVER IN CASE OF EMERGENCY**

Section 11.1. In cases of emergency declared by the President of the United States, the Governor of the State of Ohio, the Sheriff of Sandusky County, or the Mayor of the City of Fremont, such as acts of God or civil disorder, the following conditions of this Agreement may be temporarily suspended by the Employer:

- A. Time limits for the processing of grievances.
- B. All agreements relating to the assignment of employees.

Section 11.2. Upon the termination of the emergency, grievances filed prior to the emergency shall be processed in accordance with the provisions outlined in the grievance procedure of this Agreement and shall proceed from the point in the grievance procedure to which the grievance(s) had properly progressed, prior to the emergency.

ARTICLE 12 **PROBATIONARY PERIOD**

Section 12.1. Every newly hired employee will be required to successfully complete a probationary period. The probationary period for new employees shall begin on the first day for which the employee receives compensation from the Employer and shall continue for a period of one (1) calendar year unless the employee has not completed basic training (Firefighter 1 and Firefighter 2 schools) when employed in which case the one (1) calendar year probationary period will begin on the first day after the employee completes basic training and becomes certified. In this case, the maximum period for the employee's probationary period will be eighteen (18) months.

A newly hired probationary employee may be terminated or disciplined any time during his probationary period and shall have no appeal.

ARTICLE 13 **LAYOFF AND RECALL**

Section 13.1. When the City determines that a layoff or job abolishment is necessary, they shall notify the affected employees five (5) days in advance of the effective date of the layoff or job abolishment.

Section 13.2. Bargaining unit employees will be laid off in accordance with their seniority and their ability to perform the remaining work available without further training.

Section 13.3. Employees who are laid off shall be placed on a recall list for a period of four (4) years. If there is a recall, employees who are still on the recall list shall be recalled, in the inverse order of their layoff, provided they are presently qualified to perform the work in the job classification to which they are recalled.

Section 13.4. Notice of recall from a layoff shall be sent to the employee by certified or registered mail with a copy to the Union. The Employer shall be deemed to have fulfilled its obligation by mailing the recall notice by registered mail, return receipt requested, to the last mailing address provided by the employee.

Section 13.5. In the case of a layoff, the recalled employee shall have five (5) calendar days following the date of mailing of the recall notice to notify the Employer of his intention to return to work and shall have ten (10) calendar days following the mailing date of the recall notice in which to report for duty, unless a different date for returning to work is otherwise specified in the notice. Employees who are recalled but do not accept a position will be removed from the list.

Section 13.6. The City reserves the right to lay off for lack of work or funds or the occurrence of conditions beyond the control of the City, or where such continuation of work would be wasteful or unproductive.

ARTICLE 14 **HOLIDAYS**

Section 14.1. Holidays Observed. The following shall be considered paid holidays:

New Year's Day	Columbus Day
Martin Luther King Day	Veterans' Day
Washington-Lincoln Day	Thanksgiving Day
Good Friday (½ day)	Christmas Day
Memorial Day	Employee's Birthday
Independence Day	Other holidays established by the Ohio Legislature
Labor Day	

For the purpose of this Article, the day actually observed as the holiday shall be the date of the actual holiday.

Section 14.2. Holiday Pay. As each of the above holidays is observed, eligible employees will be credited with eight (8) hours of holiday pay at their regular straight-time hourly rates of pay and four (4) hours of holiday pay at regular straight-time hourly rate for one-half (½) day Good Friday to a maximum of ninety-two (92) hours per year. Holiday pay for eligible employees shall be distributed within the pay period in which the holiday occurs.

Section 14.2.A. Holiday Pay. An employee who is regularly scheduled and required to work any portion of the holiday listed in Section 14.1 of this Article shall be paid an additional half-time hourly rate at the applicable hourly rate of pay for the actual holiday hours worked. Remaining hours worked during a shift that are not actual holiday hours will be paid at the employee's applicable hourly rate of pay. An employee regularly scheduled and working the largest segment of the "actual" holiday on Good Friday shall be paid an additional half-time hourly rate of pay for eight and one-half hours at the applicable hourly rate of pay.

ARTICLE 15 **VACATIONS**

Section 15.1. Amount of Vacation. Eligible employees covered by this Agreement shall be entitled to a vacation in accordance with the following schedule:

<u>Years of Continuous Service</u>	<u>Vacation</u>
At least one but less than 6 years	2 weeks
At least 6 years but less than 12 years	3 weeks
At least 12 years but less than 18 years	4 weeks
At least 18 years	5 weeks

At retirement, an employee shall be eligible for one (1) additional week of vacation for that year only.

Section 15.2. Vacation Eligibility. In order to be eligible for vacation pay, an employee who, as of his anniversary date of employment, has been continually employed by the City at least one (1) year, must have worked at least two thousand (2,000) hours during the preceding year of employment. For the purpose of this Section only, "hours worked" shall include, in addition to actual hours worked, regularly scheduled hours during which an employee would have worked but for absence due to holiday time off (Article 14), vacations (Article 15), paid sick leave (Article 16, Sections 1-4) and paid injury leave (Article 17).

Section 15.3. Vacation Pay. For each week of vacation for which an employee is eligible pursuant to this Article, the employee shall receive vacation pay in an amount equal to the employee's straight-time hourly rate of pay times the number of hours he would have been scheduled to work but for the vacation time off. Vacations are earned and paid on the basis of full years of service, and an employee is not eligible for pro rata vacation pay for the partial completion of his current year of service upon termination of his employment.

Section 15.4. Vacation Pay in Lieu of Time Off and Vacation Accumulation. Although employees are encouraged to take their annual vacation, in the event that an employee, with the approval of the Fire Chief or his designee, chooses not to take his vacation time off, he will receive his vacation pay in lieu of time off. Vacation pay in lieu of time off shall be paid the week that December 1st falls. With the approval of the Fire Chief or his designee, one (1) week's vacation time off may be deferred and accumulated by an employee, provided that such deferred vacation time shall be taken prior to July 1 of the following year at a time agreeable to the Fire Chief. Vacation pay for such deferred vacation time shall be at the rate applicable to the year in which the vacation would have been taken but for the deferral.

Section 15.5. Taking of Vacations. To the extent that the necessary work to be performed permits, vacations shall be granted for the vacation periods requested by the employee (subject to Section 15.6) when approved by the Fire Chief. In cases of a conflict of scheduled vacation dates, the employee with the greater seniority shall be given his choice. After vacation picks have been made, an employee may change his vacation to another open time period for good cause and upon approval of the Fire Chief, which approval will not be unreasonably withheld.

Section 15.6. Vacation Periods. Eligible employees may take their vacations with prior approval in minimum increments of not less than one (1) week. An employee may split his vacation with a first pick maximum of three (3) weeks. Except that a vacation week which begins on or before December 31 may be completed during the consecutive day period (not to exceed seven [7] calendar days), including and immediately following January 1. In the case of vacations which extend beyond December 31 under this Section, all vacation pay shall be calculated at the rate applicable to the year in which the vacation begins. An eligible employee with three (3) or more weeks vacation may split one (1) week of vacation into two (2) twenty-four (24) hour days if the split will not create overtime. The minimum notice for such split is one (1) shift in advance to be approved by the Fire Chief, or designee.

ARTICLE 16

MISCELLANEOUS LEAVE

Section 16.1. Sick Leave Accrual. All employees shall accrue sick leave at the rate of four and six-tenths (4.6) hours for each eighty (80) hour period worked, and any sick leave accrued, but not used or converted as hereinafter provided, in any year shall be cumulative in succeeding years without limit. Employees who are granted leaves of absence with pay for sick leave at the above rate during such absences, but shall not be entitled to use the sick leave so accrued until after their return to work. Sick leave shall not accrue during periods of suspensions or other types of leave without pay.

Section 16.2. Use of Sick Leave. An employee eligible for sick leave may be granted such leave with full normal pay for the following reasons:

- A. Personal illness or physical incapacity;
- B. Illness of a member of the employee's immediate family requiring the employee's personal care and attendance, provided that the City shall require the employee to provide a physician's certificate attesting to the necessity of the employee's personal care of and attendance with the patient in the case of any absence in excess of forty-eight (48) consecutive duty hours or more for which sick leave for this purpose is claimed; an employee may also be granted the privilege of using sick leave for up to two (2) duty days' absence at the time of the birth of an offspring and subsequent convalescence of the employee's spouse;
- C. Enforced quarantine of the employee in accordance with community health regulations.

Sick leave for routine doctor's and dentist's appointments shall be granted only in accordance with Fire Department rules and regulations.

Section 16.3. Sick Leave Verification. An employee calling in sick will first notify his shift captain. If that person cannot be reached, the employee will then notify his shift lieutenant. If neither of these people can be reached, the employee will call the shift commander at Central Station. The employee's notice must be given as soon as the employee knows, or reasonably should know, that he will be requesting sick leave for an absence from work. A "last minute" phone call when earlier notice is possible constitutes an abuse of sick leave.

Except in cases of suspected abuse, an employee will not be routinely required to furnish, upon returning to duty, a physician's certificate evidencing that the absence was for one of the reasons set forth in Section 16.2 above, for absences of forty-eight (48) consecutive duty hours or less, although he may be required to such a certificate following an absence in excess of forty-eight (48) consecutive duty hours. Employees shall be required in all cases to furnish a written, signed statement to justify the use of sick leave.

Section 16.4. Abuse of Sick Leave. In the event that an employee is suspected of abusing sick leave, the City may require the employee to justify his use of sick leave by obtaining a physician's certificate, at City expense, from a physician designated by the City. In addition, or in the alternative, the City may require the employee to provide within a reasonable time after returning to duty, a physician's certificate from the employee's own doctor and at his own expense, or other verification of illness or injury acceptable to the Fire Chief, for any or all future absences for which sick leave is claimed.

Grounds for suspicion of abuse shall include, but not be limited to, information received by the City that the employee is, or was, during any day for which sick leave is claimed;

- A. Engaging in other employment;

- B. Engaging in strenuous physical exercise or recreation, including work around the home, other than as ordered or recommended by a doctor;
- C. Present in a tavern or other place inconsistent with a claim of illness or injury (including, but not limited to, presence at sporting events, public meetings, or social gatherings);
- D. Absent from home or place of confinement or convalescence when called or visited by representatives of the City, except in cases where the employee can produce verification (such as a hospital or medical clinic admissions or treatment slip or a receipt for the purchase of medicines from a pharmacy or a reasonable explanation) that his absence was for reasons directly related to the treatment of his illness or injury.

Excessive use of sick leave and repeated “last minute” phone calls to supervisors requesting the use of sick leave shall also be grounds for suspected abuse of sick leave. Actual abuse of sick leave (including, but not limited to, unjustified use of sick leave and unjustified failure to give adequate notice to the City of the use of sick leave) or falsification of either a written, signed statement by the employee or a physician’s certificate shall subject an employee to disciplinary action, up to and including discharge.

Any employee who is suspected of abusing sick leave shall be confronted with such suspicion by his supervisor and given an opportunity to explain his use of sick leave prior to being required to produce a physician’s certificate for future absences as set forth above.

Section 16.5. Minimum Charge of Sick Leave. Absence for a fraction of a day that is chargeable to sick leave in accordance with these provisions shall be charged in increments of not less than fifteen (15) minutes. Employees who, after reporting to work, are then sent home on sick leave shall be charged for actual hours absent.

Section 16.6. Sick Leave Credit on Return to Service. An employee who is laid off or on unpaid disability leave will, upon reinstatement to service, be credited for any unused sick leave existing at the time of his layoff or leave.

Section 16.7. Sick Leave Credit Upon Transfer. Upon transfer from one division or department to another, unused sick leave days shall continue to be available for the transferred employee’s use.

Section 16.8. Pay For Accumulated Sick Leave. An employee who retires from the department under a state retirement system and has at least ten (10) years of continuous service shall be eligible for liquidated sick pay equal to thirty-three and one-half percent (33 ½%) of accumulated sick leave hours, up to a maximum of eighteen hundred (1,800) hours at the time of separation of employment. Such liquidated sick pay shall also be paid to the surviving spouse of an employee who has at least ten (10) years of continuous service with the department at the time of his death. Maximum pay for accumulated sick leave upon retirement or death under this Section would thus be equal to six hundred (600) hours at the employee’s last applicable straight-time hourly rate.

Section 16.9. Bereavement Leave. In the event of the death of an employee's mother, father, sister, brother, spouse, child, mother-in-law, father-in-law, current stepchildren, current daughter-in-law, current son-in-law, current step-mother or step-father, the employee shall be granted up to two (2) consecutive duty days off with pay, the second day to be charged to accumulated sick leave.

In the event of the death of an employee's grandparents, grandchildren, brother-in-law, sister-in-law, aunt, uncle, niece and nephew, or the employee's spouse's grandparents or grandchildren, the employee shall be excused for one (1) duty day with pay. The City may request proof of the death and of the relationship in question. Leave time granted under this Section shall include or encompass the date of the funeral.

Section 16.10. Leave For Union Business. The Union President or his designated representative shall be granted up to six (6) days per year, of which no more than two (2) shall be consecutive duty days, to perform his Union functions, including attendance at conferences and seminars, without loss of pay upon prior written notice to and approval by the Fire Chief.

Upon seven (7) calendar days prior written notice, or as much written notice as is reasonably practicable under the circumstances, to and written approval by the Fire Chief, up to three (3) members of the negotiating team shall be allowed time off for collective bargaining meetings which shall be mutually set by the City and the Union.

Section 16.11. Emergency Leave. In the event that an employee has a personal emergency (such as a flooded basement, broken water pipes, absence of heat in winter, required court appearances, etc.) requiring his personal presence and attention and for which other paid leave time (such as sick leave) is not available, he may request from the Fire Chief or his designee that he be granted emergency leave time to deal with the personal emergency situation. The granting of such leave shall be discretionary with the Fire Chief or his designee, which discretion shall be guided by the circumstances surrounding the request for leave, the employee's past record regarding use or abuse of emergency leave, and such rules and regulations covering requests for and uses of emergency leave as may be issued from time to time by the City and/or Fire Department. The duration of the emergency leave shall be the time reasonably required by the employee to deal with the emergency situation. Employees are required and expected to return to work as soon as their personal presence and attention are no longer required. An employee who abuses this emergency leave provision (including, but not limited to, use of emergency leave for a situation which is not a true emergency or remaining off work when his personal presence and attention are no longer required) shall be subject to discipline, up to and including discharge, and/or to being docked at the applicable rate of pay for excessive emergency leave time used.

Section 16.12. Eligible bargaining unit employees shall be provided Family and Medical Leave in accordance with the Employer's Family and Medical Leave Act policy currently in effect or as hereafter amended in accordance with applicable law.

Section 16.13. Disability Separation. In the event an employee becomes unable to perform the essential functions of his position, with or without reasonable accommodations, as per ADA guidelines, and has no approved leave time coming (paid, unpaid, or FML) the Employer may terminate the employee. This shall be considered a disability separation. Prior to termination the

employee shall be entitled to a medical examination and a hearing and be entitled to union representation. The medical examination shall be paid for and the provider selected by the City. The medical examination shall be performed by an occupational health care specialist. If the employee disputes the decision by the Employer to terminate their employment, the employee may grieve the decision.

ARTICLE 17 **INJURY LEAVE**

Section 17.1. In the event of work-related injuries or occupational illnesses incurred in the course of and arising out of employment, the City shall pay the affected employee, while absent from work due to such injury, the same rate of pay the injured worker was making at the time of injury for the first one hundred eighty (180) calendar days following the injury without any loss of accumulated sick leave time. This pay continuation is in lieu of temporary total benefits normally paid by the Bureau of Workers' Compensation. Such injury shall be reported to the Chief or designee immediately. Such leave shall be granted pursuant to the initial diagnosis and certification of a duly licensed physician that the employee is unable to perform the duties and responsibilities of his position. Such initial diagnosis and certification may, at the City's option, be made either by the employee's physician, at the employee's expense, or by a physician appointed by the City at City expense. Diagnosis and certification demanded by the City thereafter shall be paid for by the City.

After 180 calendar days, if the employee remains unable to perform his essential duties due to the work-related injury or occupational illness, the injury leave may be extended by authorization of the Safety-Service Director if the employee makes application for an extension to the Safety-Service Director through the Chief, or designee. Such application for extension of injury leave shall only be granted if accompanied by a certificate from a licensed physician stating that the employee will be able to return to work and perform the duties and responsibilities of his position within the next 180 calendar days. If the employee is not able to provide such certification, or if he is unable to return to work and perform his essential duties as certified by the physician, he will be subject to disability separation pursuant to Section 16.13 of this Agreement.

ARTICLE 18 **INSURANCE**

Section 18.1. Group Health Insurance. The City will contribute ninety percent (90%) towards the premium cost of single employee coverage and will contribute eighty-five percent (85%) toward the premium cost of family coverage per month per employee for those employees electing to take such coverage under the City's group health and hospitalization plan. The remainder of the premium shall be paid by employees through payroll deduction.

A joint labor management cost containment committee will be established, with an equal number of members, who will meet at least forty-five (45) days prior to the renewal date of the insurance policy to explore insurance coverage options and cost containment alternatives.

Section 18.2. Life Insurance. The City will provide through the City's insurance carrier, at no cost to the employee, group term life insurance in the amount of \$25,000 for each employee covered by this Agreement.

Section 18.3. Insurance — General Provisions.

- A. With respect to all insurance coverage provided to employees, the City retains the right to change insurance carriers or self-insure all or any portion of the benefits as long as the level of benefits remains substantially the same.
- B. A difference between an employee (or his beneficiary) and the insurance carrier(s) or the processor of claims shall not be subject to the grievance procedure provided for in any collective bargaining agreement between the City and the Union. The City will, however, designate representatives who will be available for consultation with claimant employees (or with a designated Benefits Claim Representative of the Union), so that a full explanation may be given with respect to the basis of disposition of claims.
- C. The failure to any insurance carrier(s) to provide any benefit for which it has contracted shall result in no liability to the City or to the Union; nor shall such failure be considered a breach by the City or the Union of any obligation undertaken under this or any other agreement. Nothing in this Agreement, however, shall be construed to relieve any insurance carrier from any liability it may have to the City, Union, employee, or beneficiary of any employee. The terms of any contract or policy issued by an insurance carrier shall be controlling in all matters pertaining to benefits thereunder.

Section 18.4. Non-Duplication of Benefits.

- A. In the event any employee or dependent is entitled to benefits under any employee group insurance plan, employer's self-insurance plan or governmental plan providing benefits similar or identical to the benefits payable under the Group Insurance Plan covered by this Agreement, the benefits that would be payable under this Group Insurance Plan shall be reduced by the amount necessary, if any, so that the sum of all benefits payable under this Group Insurance Plan and under any other plan shall not exceed the amount provided for under this Group Insurance Plan. If said other plan contains a provision for non-duplication of benefits, the plan or program insuring the father will be considered primary.
- B. The benefits provided for under the Group Insurance Plan covered by this Agreement shall be in substitution for any and all other plans providing hospital, medical, surgical, sickness, death, etc., benefits. It is intended that the benefits provided by the Group Insurance Plan covered by this Agreement shall comply with and be in substitution for any provisions for similar benefits which are provided under any law now in effect or hereafter in effect. If any benefits of a similar nature to those provided in this Agreement are required under any law now in effect or hereafter in effect and the benefits provided by the Group Insurance Plan covered by this Agreement are not considered in substitution therefore, the benefits provided

for under the Group Insurance Plan covered by this Agreement shall be reduced by the amount of such benefit provided under such law.

Section 18.5. Availability of Group Coverage. Group coverage shall become available to new personnel upon their application, after they have completed thirty (30) days of employment with the City, but shall not apply to temporary, seasonal, or substitute employees.

Section 18.6. Section 125 Plan. The Employer will maintain a Section 125 Plan for employee insurance contributions subject to legal requirements.

Section 18.7. Waiver of Insurance. A bargaining unit employee who elects not to receive group health and hospitalization insurance under this article shall receive a cash payment of eight hundred dollars (\$800.00) per calendar year. Fifty percent (50%) of the cash payment will be paid in June and fifty percent (50%) will be paid in December. An employee must actually be off the group insurance for six (6) months prior to the date the cash payment is due to be paid.

ARTICLE 19 **BULLETIN BOARD**

Section 19.1. Location and Use. The City shall provide a bulletin board in the fire station for the exclusive use of the Union members. The Union President shall be responsible for posting and/or approving the posting of notices thereon which employees may read when reporting to or leaving their work stations or during their free time.

Section 19.2. Contents of Notices. The Union agrees that no notices will be placed on the bulletin board which contain:

- A. Personal attacks upon City officials or fellow employees;
- B. Scandalous, scurrilous, or derogatory attacks upon the City administration;
- C. Attacks on any other employee organizations; and
- D. Attacks on and/or favorable politically-oriented comments regarding a candidate for public or Union office.

ARTICLE 20 **MILITARY LEAVE**

Section 20.1. Military leave and pay shall be in accordance with Ohio Revised Code 5923.05.

ARTICLE 21
CORRECTIVE ACTION AND PERSONNEL FILES

Section 21.1. Corrective Action. The tenure of every employee shall be based on quality performance and good behavior. An employee shall not be demoted, suspended, discharged, or removed except for just cause. The Employer agrees to the concept of corrective discipline for remedial offenses. Disciplinary actions may be as follows: verbal warning, written reprimand (times three(3)), suspension, and dismissal. The Employer will promptly investigate offenses as it becomes aware of such offenses, and will not permit undue delay in the administration of disciplinary action. An employee may appeal disciplinary action in accordance with the grievance procedure set forth in this agreement. Disciplinary grievance involving suspension or dismissal may be submitted directly to Article 10, Section 10.0 of the grievance procedures by the Union. All written reprimands shall no longer have force and effect or be used in further disciplinary actions after two (2) years, provided there is no intervening disciplinary action. Any process set forth in this section or any discipline agreed upon by the City, employee in question, and the Union shall be done with full disclosure to all parties involved. The provisions of this Article do not apply to a newly hired probationary employee who may be disciplined or terminated any time during his probationary period and have no appeal over such removal to the grievance procedure contained herein.

Section 21.2. Personnel File. An employee shall be permitted to inspect his own personnel file at a reasonable time and upon making such arrangement with the Fire Chief. If he wishes to file a written statement with respect to any information contained therein, he may do so and said statement shall remain a part of the employee's personnel file so long as the information he is responding to remains a part of that file.

An employee will be given an opportunity to read and initial any notes or memoranda, including written reprimands and suspension notices, before placement in the employee's personnel file. An employee's initials on a document shall mean only that he has seen the document and not necessarily that he agrees with its contents. If the employee refuses to sign or initial a document, the supervisor shall attach a notation to the document that the employee has seen the document but has refused to sign or initial it.

Section 21.3. No employee may be suspended or dismissed without being given an opportunity to respond to the allegations in a meeting with the Employer; provided that the employee may be suspended pending the holding of such a meeting as long as the meeting is promptly held. The employee and the Union will be given a copy of the meeting notice. The employee shall have the right to be represented by a Union representative at such meeting. The Employer will make every attempt to promptly investigate offenses as it becomes aware of such offenses, and will not permit undue delay in the administration of disciplinary action.

Copies of disciplinary action notices shall be given to the Union when they are issued.

Section 21.4. Use of Last Chance Agreements.

Last Chance Agreements are not considered a form of discipline but a non-precedent setting agreement between the parties whereby the employee retains his/her employment for his/her agreement to commit no further work infractions as contained in the Last Chance Agreement.

Last Chance Agreements shall not amend the collective bargaining agreement and shall supersede any conflicting language in the collective bargaining agreement with regard to the employee subject to the Last Chance Agreement only. The use of Last Chance Agreements shall not require the vote of membership nor ratification by the legislative body.

Whenever the City determines an employee's conduct may warrant discharge, the City may agree to the use a Last Chance Agreement. An employee may be represented by an available Union Representative. The LAFF shall be permitted to review Last Chance Agreements.

ARTICLE 22
APPLICATION AND INTERPRETATION OF WORK RULES, POLICIES, AND DIRECTIVES

Section 22.1. Right to Publish Rules and Regulations. It is understood that the City has the statutory authority to promulgate work rules, policies, procedures, and directives to regulate the conduct of the City's business. Such matters, whenever possible, will be reduced to writing and made available to all members. The signature of an employee on such written policies, procedures, and directives shall only be viewed by the City as evidence that the employee read it, and not that the employee necessarily agrees with it.

Section 22.2. Copies of Rules and Regulations. All employees for the duration of this Agreement shall be supplied with a personal copy of the Rules and Regulations of the Fremont Fire Department and this Agreement immediately upon reporting for work. All work rules relating to safety standards and safe practice procedures shall, in addition to being posted, be verbally communicated to each affected employee by the Fire Chief or his delegate.

The Fire Chief and the Union agree to review and update, if the Fire Chief deems such update necessary, the Rules and Regulations of the Fremont Fire Department during the term of the Agreement.

Section 22.3. Mid-Term Bargaining. The Employer recognizes that no rules, policies, procedures, or directives shall be established that are in violation of any express terms of this Agreement, or that materially affect the wages, benefits, or hours of bargaining unit employees unless mutually agreed. Prior to implementing new or changed work rules, policies, procedures, or directives, or other changes that materially affect the terms or conditions of employment of bargaining unit employees, the Employer will notify the Union at least five (5) calendar days in advance of the effective date. If the Union requests to bargain over such a change within that notice period, the Employer and the Union will negotiate in good faith. If the Union does not request to bargain, or if the Employer and the Union bargain to impasse, the Employer may implement any proposed change that does not

materially affect the wages, benefits, or hours of bargaining unit employees, but the Union may exercise its negotiating rights regarding such matter in the normal course of bargaining as provided in Article 27, Duration of Agreement, for any applicable succeeding Agreement. Notwithstanding the preceding paragraph, if the change is not a mandatory topic of bargaining under RC Chapter 4117, or in any case if the change is necessary due to exigent circumstances or a state or federal directive or regulation, the Employer is not required to give the five (5) day notice or to bargain over the implementation of the change; however, the Employer may elect to do so, if time permits, without waiving the Employer's rights.

ARTICLE 23 **PROMOTION**

Section 23.1. The parties agree that appointments to the classifications of Fire Lieutenant, Fire Captain, and Assistant Chief in the Fire Department shall be filled in accordance with this Article. The provisions of this Article supersede and replace the provisions of O.R.C. 124.45 through 124.49 and applicable provisions of the Civil Service Commission Rules and Regulations for these classifications.

Section 23.2. A promoted employee shall be in a promotional probationary period for the first one hundred eighty (180) calendar days of service.

In the event the employee is found to be unsuited for the work of the new rank or he desires to return to his former rank during this period, he shall be reinstated to his former rank.

Whenever there has been a grievance, administrative, or court action filed challenging the validity of any promotion, with the mutual consent of the Employer and the Union, the probationary period of the incumbent may be extended until such time as all challenges have come to repose. If the selection is invalidated, the incumbent will be probationarily demoted.

Section 23.3. Whenever the Employer determines that permanent vacancy exists, or is imminent, for the positions of Fire Lieutenant in the Fire Department, a notice of such vacancy shall be posted on the employee's bulletin board for fifteen (15) calendar days. During the posting period, any employee, in rank of Firefighter, with a least six (6) years seniority as of the examination date wishing to apply for the vacant position shall do so by submitting a written application to the Employer. The Employer shall not be obligated to consider any applications submitted after the posting date or that do not meet the minimum qualifications for the job.

Whenever the Employer determines that a permanent vacancy exists, or is imminent, for the position of Fire Captain in the Fire Department, a notice of such vacancy shall be posted on the employee's bulletin board for fifteen (15) calendar days. During the posting period, any employee, in the rank of Fire Lieutenant, with at least one (1) year seniority in his position of Fire Lieutenant as of the examination date, wishing to apply for the vacant position shall do so by submitting a written application to the Employer. The Employer shall not be obligated to consider any applications submitted after the posting date or that do not meet the minimum qualifications for the job.

Whenever the Employer determines that a permanent vacancy exists, or is imminent, for the position of Assistant Chief in the Fire Department, a notice of such vacancy shall be posted on the employee's bulletin board for fifteen (15) days. During the posting period, any employee, in the rank of Fire Captain, with at least one (1) year seniority in the position of Fire Captain as of the examination date, wishing to apply for the vacant position shall do so by submitting a written application to the Employer. The Employer shall not be obligated to consider any applications submitted after the posting date or that do not meet the minimum qualifications of the job.

Section 23.4. The assigned reading list of the examination will be posted along with the posting of the vacancy. The books and materials to be utilized in the examination process and where to obtain copies of them will also be posted. The Employer will allow at least forty-five (45) days from the time the vacancy is initially posted until the examination is conducted to permit adequate preparation time for the examination.

Section 23.5. Examinations for promotion must be competitive, and no such examinations will be administered unless there are at least two (2) applicants. If the application of the service requirement to persons in the next lower rank does not produce two (2) persons eligible and willing to compete, then the same method shall be followed by going to successively lower ranks until two (2) or more persons are eligible and willing to compete in an examination for the vacancy.

Section 23.6. Promotion to the ranks of Fire Lieutenant, Fire Captain, and Assistant Chief shall be based upon the following criteria:

1. A written competitive examination. The written examination must be produced and administered by an outside consultant with a demonstrated ability to produce and conduct Fire Department promotional examinations. Such demonstrated ability can be ascertained by accreditation through an institution of higher education or by affiliation with a recognized professional organization. The written portion of the examination is to be weighted at forty percent (40%) of the total weight of the promotional process for the Fire Lieutenant's examination, thirty percent (30%) of the total weight for the Fire Captain's examination and twenty percent (20%) of the total weight for the Assistant Chief's examination.
2. An assessment center consisting of three (3) acceptable assessment center exercises. (Examples being: a leaderless discussion, in-basket/out-basket, problem solving, role playing.) The assessment center must be administered by an outside consultant with a demonstrated ability to produce and conduct Fire Department promotional assessment centers. Such demonstrated ability can be ascertained by accreditation through an institution of higher education or by affiliation with a recognized professional organization. The assessment center portion of the examination is to be weighted at forty percent (40%) of the total weight of the promotional process for the Fire Lieutenant's examination, fifty percent (50%) of the total weight for the Fire Captain's examination and sixty percent (60%) of the total weight for the Assistant Chief's examination.
3. Performance evaluations for the previous two (2) years. The mean score for the evaluations of this period is to be used. These performance evaluations should be performance-based

evaluations, not trait-based evaluations. The performance evaluation portion of the examination is to be weighted at ten percent (10%) of the total weight of the promotional process.

4. Seniority. For promotion to the rank of Fire Lieutenant, Fire Captain, and Assistant Chief, the Employer will add five tenths (.5) of one (1) point for each year of service, maximum of 20 years of service, as a member in the Fremont Fire Department. The maximum weight for this portion of the promotional process is ten percent (10%).

Section 23.7. When a promotional list has been certified to the Safety-Service Director by the consultant, the Safety-Service Director shall afford the employees on the list an interview. If the Safety-Service Director, utilizing the rule of three, does not intend to appoint the employee who is first on the list, then he shall inform him in writing of the reason(s) he has not been selected.

The promotional list will be effective for a two (2) year period of time from the date the list is certified to the Safety-Service Director.

ARTICLE 24

HEALTH AND SAFETY

Section 24.1. Safe Equipment and Practices. The City agrees to furnish and to maintain in adequate working condition all tools, facilities, vehicles, supplies, and equipment required to safely carry out the duties of each position. Employees are responsible for reporting any unsafe conditions or practices, and for properly using and caring for all tools and equipment furnished by the City.

Section 24.2. First Aid Equipment and Training. First aid equipment and training shall be provided at appropriate locations.

Section 24.3. Reporting of Unsafe Equipment. Any equipment, tools, and/or vehicles which are unsafe shall immediately be reported in writing to the Shift Commander or Acting Shift Commander if the equipment's safety is questionable. As soon as reasonably practicable thereafter, an investigation shall be made by the City and corrective action shall be taken, if necessary.

Section 24.4. Any employee seeking remedy before any other agency on a safety or health complaint shall not be eligible to have his grievance heard before an arbitrator under the terms of this Agreement. The Union shall be bound to follow the redress procedure elected by the employee.

Section 24.5. The Employer shall provide Hepatitis B vaccinations to all employees at the Employer's expense. Employees shall have the opportunity to accept or not accept the vaccinations, and shall so indicate on forms provided by the Employer.

ARTICLE 25
MISCELLANEOUS PROVISIONS

Section 25.1. Copies of Agreement. The City agrees to reproduce a sufficient number of copies of this Agreement for Fire Department management and all Union members and to provide each with an individual copy.

Section 25.2. Gender of Words. For the purpose of this Agreement, the masculine gender of words shall be interpreted to include the feminine gender unless the context of a particular term clearly indicates a contrary intention.

ARTICLE 26
WAGES AND BENEFITS

Section 26.1. Wages. Effective January 1, 2014, employees covered by this Agreement who are employed by the City on the date this Agreement is ratified by both parties, shall be paid in accordance with the following salary schedule (2.0% general increase):

Firefighter Classification

<u>Steps</u>	<u>Annual Salary</u>	<u>Biweekly Salary</u>
Beginning rate	\$43,946.70	\$1,690.26
After one (1) year	\$48,532.62	\$1,866.64
After five (5) years	\$50,100.36	\$1,926.94
After ten (10) years	\$50,843.94	\$1,955.54
After fifteen (15) years	\$51,596.70	\$1,984.49
After twenty (20) years	\$52,364.76	\$2,014.03

Fire Lieutenant Classification

<u>Steps</u>	<u>Annual Salary</u>	<u>Biweekly Salary</u>
Beginning rate	\$53,384.76	\$2,053.26
After five (5) years	\$55,110.60	\$2,119.64
After ten (10) years	\$55,928.64	\$2,151.10
After fifteen (15) years	\$56,756.88	\$2,182.96
After twenty (20) years	\$57,601.44	\$2,215.44

Fire Captain Classification

<u>Steps</u>	<u>Annual Salary</u>	<u>Biweekly Salary</u>
Beginning rate	\$58,723.44	\$2,258.59
After five (5) years	\$60,621.66	\$2,331.60
After ten (10) years	\$61,521.30	\$2,366.20
After fifteen (15) years	\$62,432.16	\$2,401.24
After twenty (20) years	\$63,361.38	\$2,436.98

There is a ten percent (10%) differential between ranks.

Effective January 1, 2015, employees covered by this Agreement who are employed by the City on the date this Agreement is ratified by both parties, shall be paid in accordance with the following salary schedule (2.0% general increase):

Firefighter Classification

<u>Steps</u>	<u>Annual Salary</u>	<u>Biweekly Salary</u>
Beginning rate	\$44,825.63	\$1,724.06
After one (1) year	\$49,503.27	\$1,903.97
After five (5) years	\$51,102.37	\$1,965.48
After ten (10) years	\$51,860.82	\$1,994.65
After fifteen (15) years	\$52,628.63	\$2,024.18
After twenty (20) years	\$53,412.06	\$2,054.31

Fire Lieutenant Classification

<u>Steps</u>	<u>Annual Salary</u>	<u>Biweekly Salary</u>
Beginning rate	\$54,452.46	\$2,094.33
After five (5) years	\$56,212.81	\$2,162.03
After ten (10) years	\$57,047.21	\$2,194.12
After fifteen (15) years	\$57,892.02	\$2,226.62
After twenty (20) years	\$58,753.47	\$2,259.75

Fire Captain Classification

<u>Steps</u>	<u>Annual Salary</u>	<u>Biweekly Salary</u>
Beginning rate	\$59,897.91	\$2,303.77
After five (5) years	\$61,834.09	\$2,378.23
After ten (10) years	\$62,751.73	\$2,413.53
After fifteen (15) years	\$63,680.80	\$2,449.26
After twenty (20) years	\$64,628.61	\$2,485.72

There is a ten percent (10%) differential between ranks.

Effective January 1, 2016, employees covered by this Agreement who are employed by the City on the date this Agreement is ratified by both parties, shall be paid in accordance with the following salary schedule (2.0% general increase):

Firefighter Classification

<u>Steps</u>	<u>Annual Salary</u>	<u>Biweekly Salary</u>
Beginning rate	\$45,722.14	\$1,758.54
After one (1) year	\$50,493.34	\$1,942.05
After five (5) years	\$52,124.42	\$2,004.79
After ten (10) years	\$52,898.04	\$2,034.54
After fifteen (15) years	\$53,681.20	\$2,064.66
After twenty (20) years	\$54,480.30	\$2,095.40

Fire Lieutenant Classification

<u>Steps</u>	<u>Annual Salary</u>	<u>Biweekly Salary</u>
Beginning rate	\$55,541.51	\$2,136.21
After five (5) years	\$57,337.07	\$2,205.27
After ten (10) years	\$58,188.15	\$2,238.01
After fifteen (15) years	\$59,049.86	\$2,271.15
After twenty (20) years	\$59,928.54	\$2,304.94

Fire Captain Classification

<u>Steps</u>	<u>Annual Salary</u>	<u>Biweekly Salary</u>
Beginning rate	\$61,095.87	\$2,349.84
After five (5) years	\$63,070.77	\$2,425.80
After ten (10) years	\$64,006.76	\$2,461.80
After fifteen (15) years	\$64,954.42	\$2,498.25
After twenty (20) years	\$65,921.18	\$2,535.43

There is a ten percent (10%) differential between ranks.

Section 26.2. Uniform Allowance. Upon beginning his employment with the City, a newly hired employee shall receive a complete uniform consisting of two (2) pants, four (4) shirts, one (1) coat, three (3) badges, footwear, full class A, belt, and tie as approved by the Employer. Bargaining unit employees in the employment of the Employer on the first day of January who have at least one (1) year of continuous service as of January 1 each year shall receive a yearly uniform allowance of six hundred dollars (\$600), which shall be payable no later than the first pay period in February.

An employee who has under one (1) year of continuous service will have a prorated uniform allowance.

Section 26.3. Allowance For Personal Items (Prescription Glasses and Contact Lenses). In the event of the loss or destruction of or damage to an employee's prescription eyeglasses or contact lenses in the performance of required duties, an employee shall be reimbursed for the cost of repair or replacement of the glasses, upon presentation to the Fire Chief of a receipt evidencing such repair or replacement. In order to be eligible for such reimbursement, prompt reporting of the loss to the Fire Chief or shift commander and recording of the loss on the daily report and/or incident report is required. The maximum reimbursement under the Section will be three hundred dollars (\$300).

Section 26.4. Working Out of Classification. If neither a Lieutenant nor a Captain is on duty at a fire station, the qualified senior on-duty firefighter shall be paid for such time in charge of the shift the difference between the Firefighter 15 years step straight-time hourly rate and the Fire Lieutenant 15 years step straight-time hourly rate. The Fire Lieutenant who is assigned to perform the duties of a Fire Captain shall receive for such time the difference between the Fire Lieutenant 15 years step straight-time hourly rate and the Fire Captain 15 years step straight-time hourly rate.

In the event of scheduled overtime, the procedure will be as follows when department requirements mandate that another employee be called in to work. If there is no officer on duty and if an officer is called in, that qualified senior officer shall be in charge of the shift while he is on duty. If no officer is on duty, the senior qualified firefighter is in charge of this shift and shall be paid at the Lieutenant applicable rate of pay for such time in lieu of his hourly rate of pay. This provision shall pertain to the senior qualified firefighter on duty, even though it may not be his/her regular shift. If a Lieutenant is called in on scheduled overtime and is assigned to perform the duties of a Captain, that

Lieutenant shall be paid at the Captain applicable rate of pay for such time in lieu of his hourly rate of pay.

Section 26.5. PFDPF System Pickup Plan. The City shall designate each employee's mandatory contribution to the State of Ohio Police and Fire Pension System as "picked up" by the City, as contemplated by Internal Revenue Services Rulings No. 77-464 and No. 81-36, although they shall continue to be designated as employee contributions, as permitted by Ohio Attorney General Opinions No. 82-097 and No. 84-036, in order that the amount of the employee's income reported by the City as subject to federal and Ohio income tax shall be the employee's total gross income reduced by the then current percentage amount of the employee's mandatory Police and Fire Pension System contribution which has been designated as "picked up" by the City shall be included in computing final average salary, provided that no employee's total salary is increased by such "pick up," nor is the City's total contribution to the Police and Fire Pension System increased thereby.

- A. The pick up percentage shall apply uniformly to all members of the bargaining unit as a condition of employment. The pick up shall apply to all compensation.
- B. If the rules and regulations of the IRS or Ohio Police and Fire Pension System change, making this procedure unworkable, the City and Union agree to return, without penalty, to the former method of employee/Employer contribution.

Section 26.6. Drug Free Work Place Policy. The Union adopts the City's Drug Free Work Place Policy.

Section 26.7. The City will provide to each bargaining unit employee either a single or a family annual pass to the Fremont Recreation Center. Entitlement to a family membership will be consistent with the definition of immediate family recognized in the policies, regulations or rules of the Fremont Recreation Center.

Section 26.8. Education Assistance. Effective January 1, 2015, an employee may request in writing, reimbursement for up to fifty percent (50%) of the tuition and instructional fees to obtain additional training or schooling above and beyond that required by the Employer for the performance of the employee's job duties. The training course must be job related or to prepare the employee for possible promotional opportunity with the City of Fremont. If the Employer determines that such additional training is sufficiently beneficial to the City to warrant payment by the Employer, and if funds permit, the Employer may authorize education reimbursement. Approval must be obtained in advance of starting the training as to arrangements for attending training and the employee must present satisfactory evidence to the Employer indicating the amount of tuition and instructional fees paid and proof that the employee has successfully completed the course and obtained a final passing grade of **B** or equivalent. Unless otherwise mutually agreed, any approved training is to be done on the employee's own time and cannot create overtime.

The total per employee reimbursement shall not exceed seven hundred fifty dollars (\$750.00) per calendar year.

If the employee leaves the employment of the City of Fremont within one (1) year from the date of reimbursement of education assistance, he will reimburse the City for one hundred percent (100%) of the reimbursement received from the Employer. If the employee leaves the employment of the City of Fremont within two (2) years from the date of reimbursement of education assistance, he will reimburse the City for fifty percent (50%) of the reimbursement received from the Employer. Said reimbursement shall be deducted from the employee's final paycheck.

ARTICLE 27

DURATION OF AGREEMENT

Section 27.1. Entire Agreement. This Agreement constitutes the entire agreement between the parties and concludes the collective bargaining on any subject, whether included in this Agreement or not, for the term of this Agreement. All other agreements written, oral, or otherwise are hereby canceled.

Section 27.2. Duration and Termination. This Agreement shall become effective as of January 1, 2014, subject to applicable federal and state laws and regulations. A copy executed by the City and the Union shall be delivered to the City and shall remain in full force for a period of three (3) years, to and including December 31, 2016, and from year to year thereafter unless replaced by a subsequent agreement. However, either party may notify the other party in writing not less than sixty (60) days prior to the expiration of this Agreement, or any extensions thereof, of the desire to negotiate, to amend or terminate the same. Negotiations will begin within a thirty (30) day period following the notification of intent to modify the Agreement by one of the parties.

SIGNATURE PAGE

IN WITNESS WHEREOF, the City of Fremont has caused its respective corporate names and seals to be hereunto affixed and this Agreement signed by its respective officers thereunto duly authorized and Local Union 328 of the International Association of Firefighters, being duly authorized to execute this Agreement by the majority of their respective members who are employees of the City covered by this Agreement effective, have caused their respective names and seals to be hereunto affixed and this Agreement to be signed by its officers thereunto duly authorized.

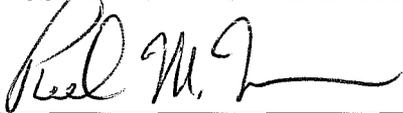
IN WITNESS WHEREOF, the parties have signed duplicates of this Agreement this 3rd day of April, 2014.

FOR THE CITY OF FREMONT:

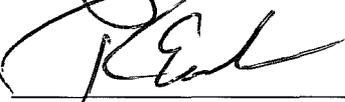
LOCAL 328, INTERNATIONAL
ASSOCIATION OF FIREFIGHTERS:



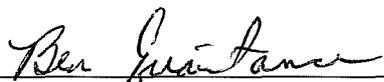
James Ellis, Mayor



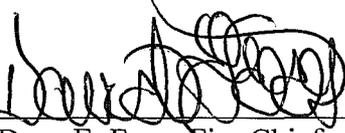
Paul Halbeisen, President Local 328



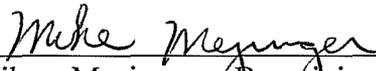
Robert Ward, Safety-Service Director



Ben Quaintance, Bargaining Committee Member



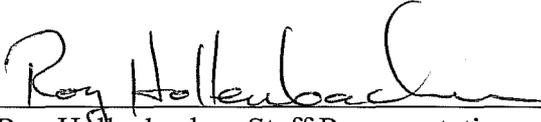
Dave E. Foos, Fire Chief Member



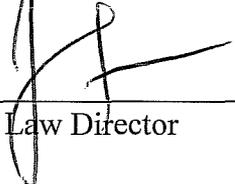
Mike Mezinger, Bargaining Committee



Fred Lord, Management Consultant



Roy Hollenbacher, Staff Representative



James Melle, Law Director

DRUG FREE WORKPLACE POLICY

I. Notice Upon Hiring

- A. All prospective employees will receive a copy of the Employer's Drug Free Workplace statement, policy and Drug Testing policy; and will be required to sign a receipt which will become a permanent part of the employee's personnel file.
- B. In addition, all prospective employees will be required to sign a written acknowledgement to the effect that:
 - 1. They understand and support the City's Drug Free Workplace Policy;
 - 2. They agree to refrain from violating this policy while in the employ of the City of Fremont;
 - 3. They acknowledge in advance that they understand that a violation of the policy may result in discipline which may include termination from employment when supported by evidence;
 - 4. They acknowledge that they have been warned that drug testing of employees will be conducted where there is individualized reasonable suspicion of drug use of drug impairment.

II. Distribution of Drug Free Workplace Policy to Current Employees

- A. All current employees who are unable to attend Drug Free Workplace training will receive a copy of the Employer's Drug Free Workplace Statement Policy.

III. The Drug Free Workplace Policy

- A. Definitions: For purposes of this policy:
 - 1. Employer — The City of Fremont, Ohio.
 - 2. Employee — means any person, i.e., management, supervisory, or non-supervisory, who is paid in whole or in part by the City.
 - 3. Controlled Substance — means any controlled substance contained in Schedules I through V of Section 202 of the Controlled Substance Act (21 USC 812 or as defined in 3719.01 O.R.C.).

DRUG FREE WORKPLACE POLICY — Continued

4. Conviction — means any finding of guilt, including a plea of nolo contendere (no contest) or the imposition of a sentence, or both, by any judicial body charged with the responsibility to determine violations of the federal or state criminal drug statutes.
5. Criminal Drug Statute — means a criminal statute involving manufacture, distribution, dispensation, use, or possession of any controlled substance. For purposes of this policy, all definitions will be consonant with 3719.01 et seq. O.R.C.

B. Regulations

1. It is the policy of the Employer to maintain a safe and productive workplace free of drugs and free of drug use.
2. The unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance by any employee which takes place in whole or in part in the Employer's workplace is strictly prohibited and may result in criminal prosecution and employee discipline which may include termination from employment.
3. Any employee convicted of any federal or state criminal drug statute must notify the Employer of that fact within five (5) calendar days of the conviction. This applies to convictions resulting from unlawful acts which take place in whole or in part in the Employer's workplace or while conducting City business.
4. Any employee who reports for duty in an altered or impaired condition which is the result of the illegal use of controlled substances will be subject to disciplinary action. Any decision to take disciplinary action may be held in abeyance pending the completion by the employee of a drug rehabilitation program. If the Employer decides to hold disciplinary action in abeyance while an employee participates in drug rehabilitation, the employee assistance will remain confidential and will not be noted in the employee personnel file, provided the employee signs a release authorizing the Employer to verify treatment and rehabilitation.
5. If an employee, prior to any incident which may result in discipline, requests the Employer's cooperation while he seeks drug rehabilitation, the employee's job will not be jeopardized and such will not be noted in his personnel file provided that the employee signs a release authorizing the Employer to verify treatment.

DRUG FREE WORKPLACE POLICY — Continued

6. Any employee convicted of a workplace-related drug offense who fails to report the conviction as required by the above will be disciplined up to and including termination from employment.

IV. The Drug Testing Policy

- A. In order to maintain a safe and healthful work environment, the Employer reserves the right to set standards for employment and to require employees to submit to physical examinations including blood or urine tests for alcohol, illegal drugs or the misuse of legal drugs where there is reasonable suspicion that an employee's work performance is, or could be, affected by the condition.
- B. In a case in which an employee is acting in an abnormal manner and where the Employer has a reasonable suspicion to believe that the employee is under the influence of the substances referenced in paragraph "A" above, the Safety-Service Director will be advised in accordance with paragraph "C" below. For purposes of the above, "reasonable suspicion" means suspicion based on personal observation by an Employer representative, including but not limited to, descriptions of appearance, behavior, speech, breath, or inexplicable behavior.
- C. Any management Employer or representative who entertains this reasonable suspicion of substance abuse will complete a "reasonable suspicion" documentation form. Once this form has been completed and communicated to the Safety-Service Director, the Safety-Service Director may either contact the Union representative to suggest treatment, or may require the employee to go to a medical clinic, at the Employer's expense, to provide either blood or urine specimens.
- D. If requested, the employee will sign a consent form authorizing the clinic to withdraw a specimen of blood or urine and to release the test results to the Employer.
- E. Any bargaining unit employee who has been ordered to undergo blood or urine testing may, upon timely request, be accompanied to the testing site by a steward or co-worker, if available. Under no circumstances will a test be delayed due to the absence or tardiness of the employee's representative or co-worker.
- F. A refusal to provide either blood or urine specimen will constitute insubordination and a presumption of impairment and may result in discharge.

DRUG FREE WORKPLACE POLICY — Continued

- G. Any employee tested in accordance with the above procedure may, if the tests results are positive, request immediate retesting at the Employer's expense or may request in advance of the original test that a portion of the original specimen be delivered to a third party for testing at the employee's expense.
- H. The results of any such test will constitute medical information and will remain confidential save for their use in official safety investigations, criminal prosecution of the employee or any action necessary to defend the discharge or discipline of the employee.
- I. If the above test fails to disclose a positive concentration of controlled substance, the reasonable suspicion documentation form will be expunged.
- J. Random drug testing will not be permitted.
- K. If the testing required above has produced a positive result, the Employer may take disciplinary action and/or require the employee to participate in any rehabilitation or detoxification program that is covered by the employee's health insurance. An employee who participates in a rehabilitation or detoxification program shall be allowed to use sick time, vacation leave, and attendance time days for a period of the rehabilitation or detoxification program. If no such leave credits are available, the employee shall be placed on medical leave of absence without pay for the period of the rehabilitation or detoxification program. Upon completion of such program, and upon receiving results from a retest demonstrating that the employee is no longer abusing a controlled substance, the employee may be returned to his former position. Such employee may be subject to periodic retesting upon his return to his position for a period of one (1) year from the date of his return to work. Any employee in a rehabilitation or detoxification program in accordance with this Article will not lose any seniority or benefits, should it be necessary for the employee to be placed on medical leave of absence without pay for a period not to exceed ninety (90) days.

V. Testing for Controlled Substances

- A. Any substance abuse test conducted under this policy must conform with the "Mandatory Guidelines for Federal Workplace Drug Testing Programs" as promulgated by the U.S. Department of Health and Human Services, April 11, 1988 (53 FR 11970), as they may be amended.

DRUG FREE WORKPLACE POLICY — Continued

VI. Policy Distribution

Each employee will receive annually an information package containing:

- A. Information concerning the dangers of drug abuse in the workplace.
- B. A current copy of the Employer's posted/published statement.
- C. A current copy of the Employer's Drug Free Workplace Policy.
- D. Information concerning any available drug counseling, rehabilitation, and employee assistance programs.
- E. Information concerning the penalties that will be imposed for the breach of the Employer's Drug Free Workplace Policy.
- F. Notice to the employee that any work-related conviction of any federal or state criminal drug statute must be reported in writing to the Employer within five (5) calendar days after such conviction.

VII. Training

- A. All employees and supervisors will receive annual training in the dangers of drug abuse.
- B. All supervisors and managers will receive annual training in the enforcement of this policy. Union representatives will be invited to attend these training sessions.

NOTICE TO EMPLOYEES

The City of Fremont supports the Drug Free Workplace Act of 1988 (PL-100-690). Consequently, any unlawful manufacture, distribution, dispensation, possession, or use of controlled substances which takes place, in whole or in part in the workplace by employees is strictly prohibited and violators will be subject to discipline and criminal prosecution.

This policy is to be regarded as a condition of employment and any employee convicted of a work-related drug offense must notify the Employer no later than five (5) calendar days after conviction.

NOTICE UPON HIRING

ACKNOWLEDGEMENT OF EMPLOYER'S INFORMATION REGARDING THE DRUG FREE WORKPLACE ACT POLICY AND DRUG TESTING POLICY.

Please sign below and present this acknowledgement slip to your supervisor for inclusion in your personnel file.

The City of Fremont, Ohio, supports the Drug Free Workplace Act of 1988. Consequently, any unlawful manufacture, distribution, dispensation, possession, or use of controlled substances which take place, in whole or in part in the workplace by employees is strictly prohibited and violators will be subject to discipline.

I hereby acknowledge the following:

1. I understand and support the City's Drug Free Workplace Policy;
2. I agree to refrain from violating this policy while in employ of the City of Fremont;
3. I understand that a violation of the policy may result in discipline which may include termination from employment when supported by evidence;
4. I acknowledge that I have been warned that drug testing of employees will be conducted where there is individualized reasonable suspicion or drug use or drug impairment.

_____/_____
Signature of Employee (date)

_____/_____
Witness (date)

**CITY OF FREMONT, OHIO
OBSERVED BEHAVIOR
REASONABLE SUSPICION**

Personnel Office Use:	
Employee Number	_____
Location	_____
Incident Number	_____

<u>Employee's Name:</u>	<u>Date Observed:</u>	<u>Time Observed:</u>	
		From _____ a.m./p.m.	
		To _____ a.m./p.m.	
<u>Address of Incident:</u>			

Street _____	City _____	State _____	Zip _____

This Observed Behavior Reasonable Suspicion form must be completed by a management employee prior to ordering any blood or urine test.

The management employee who completes this form must have personally observed the behavior documented by this form. If an anonymous tip is received concerning an allegation of employee substance abuse, it must be independently verified by a management employee using this form.

- OVERALL APPEARANCE:** (e.g., disheveled clothing, cleanliness, sleepy appearance, etc.)

Describe: _____

- PHYSICAL INDICIA:** (e.g., odor of alcohol on breath, impaired coordination, etc.)

Describe: _____

- BEHAVIOR:** (e.g., observed in possession of drug paraphernalia, irritable, mood swings, unusual gaiety, etc.)

Describe: _____

4. **OTHER:**

Described: _____

Witnessed by:

_____ Signature	_____ Title	_____ Preparation Date	_____ Time
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_____ Signature	_____ Title	_____ Preparation Date	_____ Time
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**MEMORANDUM OF UNDERSTANDING BETWEEN
THE CITY OF FREMONT AND
LOCAL 328, INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, AFL-CIO**

This Memorandum of Understanding is entered into between the City of Fremont, Ohio, hereinafter referred to as the "employer" and the International Association of Firefighters, Local 328 hereinafter referred to as the "union."

1. Upon conclusion of negotiations between the employer and the union (SERB 2010-MED-09-1304), the employer shall begin the entry-level agility testing procedure and request the Fremont Civil Service Commission to initiate written testing for the position of entry-level Firefighter.
2. Upon creation of the entry-level hiring list by the Fremont Civil Service Commission, the employer will fill the Firefighter vacancy left through promotions created by the retirement of the Fire Chief Daniel DeVanna, and any bargaining unit vacancy created by retirement/resignation during the term of this Collective Bargaining Agreement.
3. During the term of this Collective Bargaining Agreement, it is the intent of the employer to maintain an entry level Civil Service hiring list.
4. Hereinafter when practical it is the intent of the employer to give an entry-level Civil Service test when vacancies are anticipated.
5. Nothing in this Memorandum of Understanding will interfere with Article 13 of this contract. This Memorandum of Understanding does not establish a minimum manpower for the fire department.

FOR THE CITY OF FREMONT:

FOR IAFF LOCAL 328:

Date Signed: 12/7/10