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AGREEMENT BETWEEN

THE CITY OF FAIRLAWN

AND

THE PART-TIME EMPLOYEES

OF THE

DIVISION OF FIRE AND EMERGENCY RESCUE SERVICE

EFFECTIVE JANUARY 1, 2013
THROUGH DECEMBER 31, 2015

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ARTICLE 1
PREAMBLE

Section 1.1. This Agreement is entered into by and between the City of Fairlawn, hereinafter referred to as the "Employer" and the Part-Time Employees of the Division of Fire and Emergency Rescue Service, hereinafter referred to as the "Employees." This Agreement is made for the purpose of promoting cooperation and harmonious relations between the Administration and Employees.

ARTICLE 2
RECOGNITION

Section 2.1. The City hereby recognizes the Part-Time Employees of the Division of Fire and Emergency Rescue Service as the sole and exclusive bargaining agent for the purpose of collective bargaining on any and all matters related to wages, hours, or terms and conditions of employment of all Part-Time Firefighters.

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

ARTICLE 3
RULES AND REGULATIONS

Section 3.1. The Employees agree that its members shall comply with all Division rules and regulations.

ARTICLE 4
MANAGEMENT RIGHTS

Section 4.1. Management Rights. Any and all rights regarding or relating to the management of the Division of Fire and Emergency Rescue Services are the sole and exclusive responsibility of the Employer. The Employer has the right to:

A. Determine matters of inherent managerial policy which include, but are not limited to areas of discretion or policy such as the functions and programs of the City of Fairlawn, standards or services, its overall budget, utilization of technology, and organizational structure;

B. Direct, supervise, evaluate, or hire Employees;

C. Maintain and improve the efficiency and effectiveness of governmental operations;

D. Determine the overall methods, process, means, or personal by which governmental operations are to be conducted;

E. Suspend, discipline, demote, discharge or lay off, transfer, assign, schedule, reassign, promote, or retain Employees, limited only by the other Articles in this Agreement;

F. Determine the adequacy of the work force;

G. Determine the overall mission of the City as a unit of government;

H. Effectively manage the work force;

I. Take actions to carry out the mission of the Employer as a governmental unit.

Section 4.2. Reservation of Rights. The Employer is not required to bargain on subjects reserved to the management and discretion of the Employer, except as effect wages, hours, terms and conditions of employment, and the continuation, modification, or deletion of an existing provision of this Agreement.

Section 4.3. Authority of Chief or Designee. The Chief or his designee shall have the authority to make and implement decisions to maintain efficient operation of the Department.

ARTICLE 5
EMPLOYEE RIGHTS

Section 5.1. The Employees have the right to:

A. Bargain collectively with the Employer on issues which effect wages, hours, terms, and conditions of their employment and the continuation, modification, or deletion of any provisions of this Agreement;

B. Present grievances and have them adjusted pursuant to Article 8 of this Agreement; and

C. Engage in other concerted activities as defined by law.

ARTICLE 6
NO STRIKE

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

A. The Employees agree that they, their officers, agents, and representatives, will not authorize, instigate, cause, aid, condone or participate in any strike, sympathy strike, work stoppage, or any other concerted activities which interrupt the operations or services of the Employer by its members during the life of this Agreement.

B. In all cases of strike, sympathy strike, slowdown, walkout, or any unauthorized cessation of work in violation of this Agreement, the Employees shall undertake every reasonable means to induce any such Employees to return to their jobs, during any such period of unauthorized stoppage of work mentioned above. It is specifically understood and agreed that the Employer during such unauthorized work stoppage or job action shall have the whole and complete right to discipline.

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

ARTICLE 7
HOURS OF WORK

Section 7.1. The Chief or his designee retains the right of assignment.

Section 7.2. Station duty shall be assigned by the Chief or his designee. Employees normally shall be assigned to shifts for which they have determined that they are available to work.

Section 7.3. Minimum Work Hours. All Employees are responsible to work a minimum of a:

A. Weekly minimum requirement of eleven (11) hours per week, on the average, based over a twelve (12) week duration. Only time spent: (1) working a fill-in shift, and (2) running calls (as defined in Section 11.6) when an Employee is not working a fill-in shift, will count toward that Employee's weekly minimum work requirement; and

B. Weekend minimum requirement of one (1) weekend day shift (07:00 - 19:00) per twelve (12) week duration.

It is necessary for Employees to meet the requirements in this Section 7.3 in order to maintain their status as a Part-Time Firefighter with the City of Fairlawn. The Chief may make exceptions to the requirements set forth in this Section 7.3 on a case-by-case basis if the Chief determines that there are extenuating circumstances justifying the exception. However, no such exceptions shall be interpreted as setting a precedent for future cases.

Section 7.4. Work Period. The work period for the Part-Time Firefighters shall be defined as a twenty-eight (28) day, two hundred twelve (212) hour work period, consistent with the Fair Labor Standards Act.

Section 7.5. Overtime. Any work performed by a Part-Time Firefighter in excess of the work period as defined in Section 7.4 shall be approved by the Chief or his designee. Approved overtime will be paid at the rate of time-and one-half (1-½) in accordance with the Fair Labor Standards Act.

Section 7.6. Pay Period. The pay period is defined as a two (2) week period, which will coincide with the first fourteen (14) days and the second fourteen (14) days of the twenty-eight (28) day work period.

Section 7.7. The Mayor, Fire Chief or their designee shall have the authority to determine bona fide City emergency, and their determination shall be made with their sole discretion.

Section 7.8. Upon request by either party to discuss scheduling-related issues, the parties shall form a committee of not more than two (2) representatives per side, meet and discuss such issues.

ARTICLE 8
GRIEVANCE PROCEDURE

Section 8.1. Grievance Procedure. The term "grievance" shall mean an allegation by a Part-Time Employee of the Division of Fire and Rescue Services that there has been a violation or misinterpretation of the express terms of this Agreement. The grievance procedures shall not be used to effect changes in the Articles of this Agreement nor those matters not covered by the express terms of this Agreement.

Section 8.2. Process. All grievances must be processed at the proper Step in order to be considered at subsequent Steps. Any Employee may withdraw a grievance at any point by submitting in writing a statement to that effect, or by permitting the time requirements at any step to lapse. Any grievance which is not processed by the Employee within the time limits provided shall be considered resolved based upon the Employer's last answer.

Any grievance not answered by the Employer within the stipulated time limits may be advanced by the Employee to the next step in the grievance procedure. All time limits on grievances may be extended by upon mutual consent of the parties within five (5) working days from the last day that the Employer had to respond to the grievance.

Section 8.3. Procedure. It is the mutual desire of the Employer and the Employees to provide for prompt adjustment of grievances, with a minimum amount of interruption of the work schedules. Every responsible effort shall be made by the Employer and the Employees to effect the resolution of grievances at the earliest step possible. No settlement of any grievance shall conflict with the terms of this Agreement. In furtherance of this objective, the following procedure shall be followed:

Step 1: The grievance must be presented in writing to the designated Supervisor within five (5) working days from the date alleged incident occurred, but in no case later than twenty (20) calendar days following the date of such incident. Within five (5) working days from the date of the Employee first presents his written grievance, the Supervisor will deliver his written response.

Step 2: If the grievance is not resolved, the Employee may pursue the matter by presenting the grievance and the Supervisor's response in writing to the Chief, or his designee, within five (5) working days of the reply received in Step 1. The Chief, or his designee, shall, if it is deemed necessary, meet with those concerned and attempt to resolve the matter, and shall respond in writing within ten (10) working days following timely receipt of the grievance at this step.

Step 3: If the grievance is not resolved, the Employee may pursue the matter by presenting the written responses to the Safety Director within five (5) working days of the reply received in Step 2. The Safety Director shall, if it is deemed necessary, meet with those concerned and attempt to resolve the matter, and shall respond in writing within ten (10) working days following timely receipt of the grievance at this step. If the Mayor is also serving as the Safety Director, this Step 3 shall be omitted and the grievance may be advanced from Step 2 to Step 4.

Step 4: If the grievance is not resolved, the Employee may pursue the matter by presenting the written responses to the Mayor within five (5) working days of the reply received in Step 3. The Mayor shall meet with those concerned and attempt to resolve the matter, and shall respond in writing within fifteen (15) working days following timely receipt of the grievance at this step.

Step 5: Civil Service as a Remedy: If the grievance is not satisfactorily settled at Step 4, the Employee may file a Notice of Appeal to the Civil Service Commission regarding any matter properly under its jurisdiction, provided that the Employee is an Intermittent Employee in the classified civil service of the City of Fairlawn. If the Employee is not an Intermittent Employee in the classified civil service, this Step 5 shall not be available to that Employee. For Employees who have a right to appeal to the Civil Service Commission a Notice of Appeal must be mailed, certified mail, return receipt requested, to the Commission within the appropriate time as established by the Commission but no later than 30 days. If the grievance is not mailed certified mail within the time limits prescribed, the grievance shall be considered resolved based upon the Step 4 reply.

Section 8.4. Grievance Information. All grievances must contain the following information to be considered, and must be filed using the grievance form mutually agreed upon by the parties:

1. Grieved Employee's name and signature;

2. Grieved Employee's classification;

3. Date grievance was filed in writing;

4. Date and time grievance occurred;

5. The location where the grievance occurred;

6. A description of the incident(s) giving rise to the grievance;

7. Specific Articles and Sections of the Agreement violated;

8. Desired remedy to resolve the grievance.

Section 8.5. Self Representation. When an Employee covered by this Agreement chooses to represent himself in the presentation of a grievance, no adjustment of the grievance will be inconsistent with the terms of this Agreement. Prior to the adjustment of any such grievance, the appropriate Employee grievance representative will be notified of his right to be present at the adjustment.

Section 8.6. Who May File. A grievance may be brought by an Employee covered by this Agreement. Where a group of Employees desire to file a grievance involving an incident affecting several Employees in the same manner, an Employee shall be selected by the group to process the grievance. Each Employee who desires to be included in such grievance shall be required to sign the grievance.

ARTICLE 9
DURATION AND POSTING OF SCHEDULES

Section 9.1. The Chief or his designee shall set up a schedule of shifts on a continuing basis, posted in convenient locations accessible to Employees (e.g. on a bulletin board) and copies shall be forwarded to each Part-Time Employee at least four (4) days in advance of the shift.

ARTICLE 10
HOLIDAYS

Section 10.1. Holidays. The following shall be considered holidays:

New Year's Day
Easter Sunday
Memorial Day
Independence Day
Labor Day
Columbus Day
Thanksgiving Eve
Thanksgiving Day
Christmas Eve
Christmas Day
New Year's Eve

Section 10.2. Compensation for Working on a Holiday. Bargaining unit employees who work on one of the holidays listed in Section 10.1 will receive two (2) times their regular rate of pay for work on that day.

Section 10.3. Premium Pay on Holidays. For purposes of calculating premium pay on all holidays, premium pay on holidays shall be paid from 7:00 A.M. on the day of the holiday until 7:00 A.M. on the day following the holiday.

Section 10.4. Special Event Pay. The Chief may, without setting precedent, designate from time to time, special event pay equal to holiday pay for the hours worked at designated special events.

ARTICLE 11
WAGES

Section 11.1. Base Wage Rates. Except as specifically set forth in another Article of this Agreement, the hourly rates for bargaining unit employees are set forth in this Article.

Section 11.2. Fill-In Rate. Beginning on January 1, 2013 and effective through December 31, 2013, the fill-in hourly rates for bargaining unit employees with the following years of service as a part-time Fire/Medic with the City shall be increased 2.25% as follows:

Employed As:	Yrs. of Service:	2013
Firefighter/EMT-B	0+ years	$18.37
Firefighter/EMT-P	0-4 years	$20.75
Firefighter/EMT-P	4+ years	$21.34

The wage scale(s) for years 2014 and 2015 shall be subject to negotiations pursuant to the wage reopener explained in Article 18.

Section 11.3. Check-Off Wage. During a new Employee's "check-off" period (i.e., from his/her date of hire through the time when he/she is given full active status), such Employee will be paid the federal minimum wage for all hours approved by the Chief or his designee. Upon reaching full active status, the Employee will be paid according to the pay rates set forth in Section 11.2.

Section 11.4. Run Time. "Run time" is defined as time spent running calls when an Employee is not working a fill-in shift (call backs, second calls, all calls). Run time on holidays will be paid according to the provisions in Article 10. Run time on days other than holidays will be paid at one and one-half (1.5) times the Employee's fill-in rate as set forth in Section 11.2.

ARTICLE 12
UNIFORM ALLOWANCE

Section 12.1. The Employer shall mandate the dress to be worn by the Employees and shall provide such clothing to the Employees in accordance with the rules and regulations of the Employer and/or the Chief. Within the discretion of the Chief, Employees may purchase additional dress items. The City agrees to maintain the clothing replacement program to meet current safety standards.

ARTICLE 13
TRAINING

Section 13.1. It shall be the responsibility of each Employee to maintain certain certifications essential to comply with the job responsibilities assigned to that Employee. The Employer shall attempt to provide the opportunity for Employees to meet re-certification requirements at the Fire Station.

Section 13.2. If the opportunity for necessary training is not provided, or if the opportunity is provided and the Employee is unable to attend due to circumstances caused by the Employer, the Employer shall pay the tuition and provide required materials for training which an Employee shall complete elsewhere.

Section 13.3. Employees shall be compensated at the Employee's fill-in rate as set forth in Section 11.2 for any trainings approved by the Employer over and above those required to maintain certification. Certification training includes, but is not limited to, EMT refresher, BCLS and ACLS training.

Section 13.4. Any training to maintain required or approved certifications will be compensated at the Employee's fill-in rate as set forth in Section 11.2 if the Employee attends the training on duty, or at time and one-half of the Employee's fill-in rate if the Employee attends the training off duty.

ARTICLE 14
ACTIVE SERVICE

Section 14.1. Except as otherwise defined in this Agreement, where the term "active service" is used, it means active service with the Division of Fire and Emergency Rescue Services, beginning at the Employee's initial date of hire with that Division.

ARTICLE 15
LEGAL DEFENSE OF EMPLOYEES

Section 15.1. The Employer agrees to provide the legal defense of any lawsuit against any Employee alleged to have arisen out of any act or failure to act within the scope of the regular official duties of such Employee, provided that such act or failure was not malicious, motivated for private gain or did not constitute willful misfeasance, malfeasance or nonfeasance.

ARTICLE 16
DRUG TESTING

Section 16.1. Employee Education Regarding Drug Testing. There will be a ninety (90) day education and information period prior to the implementation of testing for new Employees. All new Employees will be informed of the Department's drug testing procedures. New Employees will be provided with information concerning the impact of the use of drugs on job performance. In addition, the Employer will inform new Employees of the manner in which these tests are conducted, the reliability of the tests performed, under what circumstances Employees will be subject to testing, what the tests can determine, and the consequences of testing positive. All new Employees will be provided with this information when initially hired. A record will be maintained of the Employee's receipt of this information.

Section 16.2. Drug Testing. Drug testing shall be conducted where there is a reasonable suspicion (described below); upon an Employee's return to duty after completion of a rehabilitation program, or upon return to duty after being off duty for six (6) months or more.

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

1. Where there has been a serious on-duty injury to an Employee or another person, the cause of which is otherwise unexplained;

2. Where an Employee, while operating a City vehicle, becomes involved in a traffic accident which results in physical harm to persons or property, and where the circumstances raise a question as to the existence of substance abuse by the Employee involved;

3. Where there is observable phenomena, such a direct observation of drug use, possession or distribution, or the physical symptoms of being under the influence of drugs (e.g., slurred, rambling or incoherent speech, dilated pupils or bloodshot eyes, odor of marijuana, unexplained lack of coordination, impaired reaction time, sweaty or flushed skin, staggering or unsteady walk, changes in affect, dynamic mood swings, etc.);

4. Where there is a pattern of abnormal conduct, erratic or aberrant behavior, or deteriorating work performance which appears to be related to substance abuse and does not appear to be attributable to other factors; and

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

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

Section 16.3. Authorized Laboratories. All drug tests shall be conducted by laboratories certified by the Federal Department of Health and Human Services (DHHS). The procedure utilized by the testing lab shall include a chain of custody procedure in compliance with DHHS recommendations and Gas Chromatography/Mass Spectrometry (GC/MS) confirmation of any positive initial drug screening.

Section 16.4. Procedure. Drug tests shall be administered by urinalysis for the following drugs: amphetamines, barbiturates, benzodiazepines (valium, librium, etc.), cannabinoids (THP), cocaine (including crack), methadone, methaqualones, opiates, phencyclidine (PCP) and propoxyphene (darvon). An Employee who initially tests positive shall be immediately removed from duty and placed on unpaid leave. If the initial screening is positive, within 72 hours of notification from the medical review officer, the Employee may request a confirmation test of a split specimen, at a different DHHS approved laboratory. If the confirmation test is negative, the Employee shall be immediately returned to duty and reimbursed for all lost wages. Any Employee who refuses to submit to the above identified tests shall be prohibited from performing or continuing to perform his/her duties.

An Employee may voluntarily enroll in a qualified rehabilitation program specified by a substance abuse professional, however, the City shall not be responsible for any expense related thereto. An Employee who participates in a rehabilitation program shall be granted up to twelve (12) months' leave of absence. Upon evaluation and certification by a substance abuse professional or medical review officer that the Employee has successfully completed the recommended rehabilitation program and a return to duty test that demonstrates that the Employee is no longer using/abusing drugs, the Employee shall be returned to the position he or she held prior to entering the program. The Employee must also comply with the requirements listed in Sections 8.8 and 8.9 of the Policies and Procedures Manual for the Fairlawn Fire Department dated April 1, 1994. Such Employee shall be subject to follow up testing for a period of one year from the date of his or her return to work.

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

An Employee will be subject to disciplinary action under this Article for any of the following reasons: when the Employee reports for duty or performs work and tests positive for using a prohibited drug as listed in this Section 16.4 above after having once completed a drug rehabilitation program; refuses to submit to a drug test; fails to complete the rehabilitation program the Employee has entered pursuant to this Article; alters or attempts to alter drug test results; or if the Employee tests positive at any time within the year following his or her return to work.

Section 16.5. Medical Releases. For purposes of implementing the provisions of this Article, each Employee shall execute medical releases for the City to obtain the results of the physical examinations and drug testing provided for in this Article. Except as otherwise provided by sate or federal law with regard to communicable diseases or with the permission of the Employee, the releases referred to in this Section shall authorize only the release of examination results and progress reports pertaining to the drug test results. No other medical finding may be released without the express written permission of the Employee, except that without a release from the Employee, the employer may disclose information pertaining to an Employee's drug testing to a decision-maker in a grievance or other proceeding initiated by or on behalf of an Employee and arising from the results of a drug test.

ARTICLE 17
AGREEMENT REVIEW

Section 17.1. In an effort to encourage and foster the spirit of cooperation exemplified by this Agreement, the parties agree to select two (2) representatives from each side to meet every six (6) months or as needed by mutual agreement from the effective date hereto review the implementation of this Agreement.

ARTICLE 18
MISCELLANEOUS

Section 18.1. Duration of Agreement. This Agreement shall be effective as of January 1, 2013, and shall remain in full force and effect through midnight, December 31, 2015. Irrespective of any other provision of this Article, the parties shall reopen negotiations on the subject Wages, Article 11, to be effective for years 2014 and 2015. This Agreement shall not be reopened for any other matter. A notice to negotiate for such reopener shall be filed by the Part-Time Employees of the Division of Fire and Emergency Rescue Service with the State Employment Relations Board no earlier than August 1, 2013 and no later than October 31, 2013. Negotiations shall be conducted pursuant to Chapter 4117 of the Ohio Revised Code.

Section 18.2. Notice to Negotiate. If either party desires to modify or amend this Agreement, it shall give written notice of such intent no earlier than one hundred twenty (120) calendar days prior to nor later than ninety (90) calendar days prior to the expiration date of this Agreement.

Such notice shall be by certified mail, return receipt requested. The parties shall commence negotiations within two (2) calendar weeks upon receiving such notice.

ARTICLE 19
FULL AGREEMENT

Section 19.1. Full Agreement. The provisions of this Agreement constitute the entire agreement between the parties. Any modification to this Agreement must be in writing, signed by all the parties, and appended hereto.

Section 19.2. Waiver. The parties hereto agree that during the negotiations which resulted in this Agreement, each had the unlimited right to make demands and proposals on any subject matter not removed by law from the area of collective bargaining, that they have discussed fully and totally all issues between the parties, that the entire understanding sand agreement arrived at by the parties after the exercise of these rights are set forth in this Agreement, and they hereby agree to waive any and all bargaining and rights of bargaining on any other issues, topics or subject not included within the Agreement, and further, the parties waive any and all rights of bargaining on all other subjects not included within the collective bargaining agreement.

Section 19.3. Conformity to Law. This Agreement supersedes and replaces all applicable laws which it has the authority to supersede and replace.

Section 19.4. Validity. If the enactment of federal or state legislation, or a determination by a court of final and competent jurisdiction (whether in a proceeding between the parties or in one not between the parties) renders any portion of this Agreement invalid or unenforceable, such legislation or decision shall not affect the validity of the surviving portion of this Agreement, which shall remain in full force and effect as if such invalid portion thereof had not been included herein. In such event, at the written request of either party, the parties shall meet within thirty (30) days to discuss the impact and to consider modification of the invalidated provision or provisions.

IN WITNESS WHEREOF, the parties have heretofore set their hands this 18th day of December, 2012.

FOR THE CITY OF FAIRLAWN:

WILLIAM J. ROTH, JR., MAYOR

RUSSELL G. HOSE, FIRE CHIEF

EDWARD J. RIEGLER,
DIRECTOR OF LAW

KEVIN CAMPBELL,
ATTORNEY AT LAW

FOR THE PART-TIME
FIREFIGHTER/MEDICS:

KENNETH STROPE

MICHAEL LUCAS