



AGREEMENT BETWEEN



THE
CITY OF AVON

AND

THE AVON FIREFIGHTERS
IAFF LOCAL # 4310, AFL-CIO



Effective:

January 1, 2011

through

December 31, 2013

Case No. 2010-MED-09-1212

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AGREEMENT AND PURPOSE

Agreement. This agreement is hereby entered into between the City of Avon, Ohio, hereinafter referred to as the "City," and the International Association of Firefighters Local # 4310, AFL-CIO, representing full-time employees in the City of Avon, and hereinafter referred to as the "Union" or "Local #4310."

Purpose. This agreement is made for the purpose of promoting harmonious relations between the City and its employees; to set forth the full and complete understandings and agreements between the parties governing wages, hours, terms and other conditions of employment consistent with Chapter 4117 ORC for those employees included within the bargaining unit as defined herein; and to establish a peaceful procedure for the resolution of differences which may arise under this agreement.

Definitions. "City," "Employer," and "Management" mean the City of Avon, Ohio. "Employee" or "member" means full-time bargaining unit employees (Captain/Paramedic, Lieutenant/Paramedic, Firefighter/Paramedic) employed by the City.

"Union" or "Local 4310" means the International Association of Firefighters, Local 4310, AFL-CIO.

The male pronoun or adjective where used herein refers to the female also, unless otherwise indicated.

ARTICLE 1 RECOGNITION

The City hereby recognizes the Avon Firefighters, Local #4310 of the International Association of Firefighters, AFL-CIO as the sole and exclusive representative of all full-time employees within classifications included under the SERB certification, excluding the Chief of Fire and the Assistant Chief of Fire.

The SERB-certified bargaining unit includes full-time employees within the following classifications:

- Captain/Paramedic
- Lieutenant/Paramedic
- Firefighter/Paramedic

ARTICLE 2 MANAGEMENT RIGHTS

2.01. Except as expressly limited by a specific provision(s) of this agreement, the management of the Employer's operations, in all of their phases and details, the control of its premises, and the direction and control of the employees shall remain vested in the Employer. The Employer's rights shall include, but in no way be limited to, the following:

- 1) To determine matters of inherent managerial policy, which include but are not limited to, areas of discretion or policy such as functions and programs of the public employer, standards of services, its overall budget, utilization of technology, and organizational structure.
- 2) To direct, supervise, evaluate, or hire employees.
- 3) To maintain and improve the efficiency and effectiveness of governmental operations.
- 4) To determine the overall methods, processes, means, or personnel by which governmental operations are to be conducted.
- 5) To suspend, discipline, demote, or discharge for just cause, or layoff, transfer, assign, schedule, promote, or retain employees.
- 6) To determine the adequacy of the workforce.
- 7) To determine the overall mission of the employer as a unit of government.
- 8) To effectively manage the work force.
- 9) To take actions to carry out the mission of the public employer as a governmental unit.

2.02. The exercise of any rights, power, authority, duty, or responsibility by the Employer, and the adoption of such rules, regulations, and policies as may be deemed necessary, and as they apply to employees in the bargaining unit, shall be limited only by the specific express terms of this agreement.

2.03. The conduct and grading of civil service examinations, the rating of candidates, the establishment of eligible lists from the examinations, and the original appointments from the eligible lists are not appropriate subjects for collective bargaining.

2.04. The Employer is not required to bargain on subjects reserved to the management and direction of the governmental unit except as effect wages, hours, terms and conditions of employment, and the continuation, modification or deletion of an existing provision of a collective bargaining agreement.

ARTICLE 3 UNION RIGHTS

3.01.

A. The Union shall have the right to appoint or elect up to two (2) representatives and up to two (2) alternates from the bargaining unit, and a representative from the IAFF, and such representatives shall be recognized by the City to represent the Union in contractual and

labor/management related matters. The names of Union members so selected shall be certified in writing to the City, and no individual shall be recognized by the City until such written certification has been submitted.

B. The written certification to the Employer of selected Union representatives shall be kept current at all times and shall include the following:

1. Name;
2. Address;
3. Home and/or cell phone number;
4. Shift and immediate supervisor;
5. Union office/designation held.

3.02. The City agrees that during working hours, on City-owned premises, without loss of regular time or compensation and without interruption of services or disruption of the duties of other employees, Union representatives shall be permitted reasonable time to:

1. Transmit communications, authorized by the Union or its officers, to the City or its representatives.
2. Consult with City representatives, Union officers, or other Union representatives concerning the enforcement, interpretation, application, or claim of violation of any provision of this agreement.
3. Attend predisciplinary conferences when requested by an affected member.

3.03. The Union may conduct Union meetings on a monthly basis on City property, provided that the meetings shall be scheduled and conducted so as not to interfere with the effective operation of the division and have the advance approval of the Chief of Fire/designee. When the Union holds a meeting off City property in the City of Avon, one (1) officer of the Union, who is working at the time the meeting is held, may be approved to attend the meeting without suffering loss of time or compensation, provided that the officer's absence does not result in the division being inadequately staffed, that his attendance has been prior approved by the Chief/designee, and that the officer will respond immediately if notified to return to work.

3.04. A Union representative(s) and affected employee shall not suffer any loss of straight time earnings for time spent in grievance meetings or predisciplinary meetings during their regularly scheduled work hours.

3.05. Two (2) Union representatives appointed by the Executive Board shall be granted time off without loss of time or compensation to perform their Union functions including attendance at conventions, conferences and seminars. Said representatives shall be granted time off to attend one (1) convention per year, two (2) District meetings per year, and two (2) seminars or conferences per year. Each representative may be granted up to four (4) tours of duty each for a maximum cumulative total of eight (8) tours per year. Attendance at any convention, meeting conference or seminar will not be permitted unless at least nine (9) calendar days notice is received by the Fire Chief.

3.06. The City agrees to allow the Union to install and maintain, at their cost, the proper lines necessary to run a fax machine and computer owned by the Union. The Union shall comply with all City policies and procedures relative to computer and internet use.

3.07. The Union agrees that no representative of the Union, employee or non-employee, shall interfere with, interrupt, or disrupt the normal work duties of other employees. The Union further agrees not to conduct Union business during working hours except to the extent specifically authorized herein.

ARTICLE 4 BULLETIN BOARDS

4.01. The Employer agrees to provide the Union a 2' x 4' bulletin board for posting of authorized materials as set forth herein.

4.02. Union notices relating to the following matters may be posted without the necessity of receiving the Employer's prior approval:

- A. Union recreational and social affairs;
- B. Notice of Union meetings;
- C. Union appointments/elections/election results;
- D. Rulings or policies of the Union.

All other notices of any kind not covered in "A" through "D" above must receive prior approval of the Chief of Fire or his designated representative. It is also understood that no material may be posted on the Union bulletin boards at any time which contain the following:

- 1. Reporting, commentary, endorsement, criticism, or any other statement which is politically motivated or considered of a political nature, except as provided in "C" above;
- 2. Personal attacks upon any other member or any other employee, or elected officeholder;
- 3. Attacks on any employee organization, regardless of whether the organization has local membership.

4.03. No Union-related materials of any kind may be posted anywhere in the Employer's facilities except on the bulletin board designed for use by the Union.

ARTICLE 5 NO STRIKE/NO LOCKOUT

5.01. The Union shall not, directly or indirectly, call, sanction, encourage, finance and/or assist in any way, nor shall any employee instigate or participate, directly or indirectly, in any strike,

slowdown, walkout, work stoppage or interference of any kind in the operation of the Fire Department.

5.02. The Union shall at all times cooperate with the City in continuing the operations in a normal manner and shall actively discourage and endeavor to prevent or terminate any violation of Section 5.01. Should any violation of this article occur, the Union shall immediately notify all employees that the strike, slowdown, work stoppage or other interference with the Fire Department operations is prohibited and is not in any way sanctioned or approved by the Union. Furthermore, the Union shall order all employees to return to work at once.

5.03. It is further agreed that any violation of the above provisions will be sufficient grounds for disciplinary action, including discharge. Employees shall not have appeal or recourse over disciplinary action taken in accordance with these provisions. However, the issue as to whether an employee participated in any strike/work stoppage/interference with Fire Department operations may be subject to the grievance procedure contained within this agreement.

5.04. The City shall not lockout any employee for the duration of this agreement provided there is no violation of Section 1 of 2 herein.

ARTICLE 6 NON-DISCRIMINATION

6.01. The Employer and the Union recognize their rights and responsibilities under federal and state civil rights laws and affirmative action requirements. The parties agree that insofar as practicable, the provisions of this agreement will be applied without regard to race, color, religion, national origin, sex, age, military status, or disability, except where a bona fide occupational qualification exists.

6.02. The Employer and the Union recognize the rights of employees to join, assist, or participate in the Union and lawful concerted activities, and the right of employees to refrain from joining, assisting, or participating in the Union and lawful concerted activities. The Employer agrees not to interfere with the rights of employees to become members of the Union, and agrees there shall be no interference, restraint, or coercion against any employee because of any lawful activity in an official capacity on behalf of the Union, provided that activity does not conflict with the terms of this agreement. The Union agrees not to interfere with the rights of employees to refrain or resign from membership in the Union, and agrees there shall be no interference, restraint, or coercion against any employee exercising the right to abstain from involvement in Union activities.

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

**ARTICLE 7
RULES AND REGULATIONS**

7.01. The Union recognizes the right of the Employer to establish reasonable work rules, regulations, policies and procedure (rules).

This agreement represents the entire agreement between the Employer and the Union, and unless specifically set forth in the express provisions of this agreement, all rules and regulations presently in effect may be modified or discontinued at the sole discretion of the Employer.

7.02. New or modified rules will, except in case of emergency, be discussed in a labor/management meeting at least ten (10) calendar days in advance of their effective date, and provided to employees at least seven (7) calendar days in advance.

An official copy of rules will be maintained at the Fire Department and be available for review by employees.

7.03. Any decision or action of the Employer pursuant to Section 1 above may be questioned by the Union and discussed at a labor/management meeting held pursuant to Article 33 herein.

**ARTICLE 8
PROBATIONARY PERIOD**

8.01. Initial Probation. All newly hired employees shall be required to serve an initial probationary period of one (1) year. During the initial probation, the Employer shall have the right to discipline or discharge such employee(s) without restriction and such action shall not be appealable through the Grievance or Arbitration Procedures herein contained or to any Civil Service Commission. Employees shall be moved to the next step on the salary schedule after one (1) year of employment. Any part-time firefighter moving to full-time firefighter shall be considered a newly hired employee for purposes of this article.

8.02. If an employee is discharged or quits while on probation, and is later rehired, he shall be considered to be a newly hired employee.

8.03. Promotional Probation. All employees who are promoted shall serve a probationary period of one (1) year. During promotional probation, the Employer shall have the right, without restriction, to reduce such employees. Any such reduction shall not be appealable through the Grievance or Arbitration Procedures herein contained or to any civil service proceedings.

Nothing herein shall limit the Employer's ability to discharge for cause consistent with other provisions of this agreement.

8.04. Probationary employees shall be evaluated by the immediate supervisor and the Chief/designee, not less than once each ninety (90) days during the probationary period. Evaluation shall be in writing and reviewed with the employee. More frequent evaluations may be conducted at the discretion of the Chief/designee.

**ARTICLE 9
SICK LEAVE**

9.01. Sick leave shall be defined as an absence with pay necessitated by: 1) illness or injury to the employee, including pregnancy and as medically necessary; 2) exposure by the employee to a contagious disease communicable to other employees; and/or 3) illness or injury in the employee's immediate family where the employee's presence is medically or reasonably necessary.

9.02. When the use of sick leave is due to illness or injury in the immediate family, "immediate family" shall be defined to only include the employee's spouse, child(ren) or parent.

9.03. Full-time employees shall be eligible to accumulate up to the equivalent of one and one fourth (1 1/4) days per month. One and one-quarter (1 1/4) days shall equal ten (10) hours for forty (40) hours per week employees and thirteen (13) hours for shift or fifty-one and seven tenths (51.7) hour per week employees.

9.04. Sick leave shall not be taken in less than one (1) hour increments.

9.05. An employee who is to be absent on sick leave shall notify the officer on duty of such an absence and the reason therefore as soon as possible and at least one (1) hour before the start of the shift that he is scheduled to work. Failure to do so may be cause for denial of sick leave with pay for the period of absence unless emergency conditions make timely notification impossible.

9.06. Accumulation of sick time shall be limited to two thousand four hundred (2400) hours.

9.07. Any employee fraudulently obtaining or attempting to obtain sick leave shall be disciplined, up to and including discharge, inclusive of a refund of any salary or wages paid. Excessive or patterned use of sick leave shall also be just cause for discipline. The City may initiate investigations when an employee is suspected of abusing his sick leave privilege.

9.08. The City may require an employee who has been absent due to a personal illness or injury, prior to and as a condition of his return to duty, to be examined by a physician designated by the Employer and paid for by the Employer, to establish that he is not disabled from the performance of his normal duties and that his return to work will not jeopardize the health and safety of other employees. The medical examination, if required, shall be limited to the purpose of determining whether or not the employee is able to perform the duties of his job, which determination shall be reported in writing by the examining physician so selected by the City, to the City and to the employee, and the costs therefore shall be paid by the City.

9.09. A shift employee requesting sick leave with pay for two (2) consecutive work days or more will be required to present a written statement from a physician or other certified medical practitioner certifying that the employee's condition prevents him from performing the duties of his position, before sick leave will be approved. If the condition continues for more than seven (7) calendar days, medical documentation, including the expected date of return, must be submitted by the employee. It shall be the responsibility of the employee to ensure that such

medical documentation remains current. Forty (40) hour per week employees shall be required to provide medical documentation for absences of three (3) consecutive work days or more.

9.10. All Union employees who have accumulated more than two thousand four hundred (2400) hours of sick time or more may convert up to one hundred and four (104) hours of sick leave to cash at the rate of two (2) hours of sick leave for one (1) hour of pay, to a maximum of fifty-two (52) hours of pay per calendar year. Requests to convert sick leave to cash must be submitted not later than January 10 of the applicable year.

9.11. Upon service or disability retirement, a shift employee (51.7 hours per week) shall be paid for any accumulated, unused paid sick leave at the ratio of one (1) hour's pay for each two (2) hours accumulated, up to a maximum of twelve hundred (1200) hours of pay. Upon service or disability retirement, a forty (40) hour per week employee shall be paid for any accumulated, unused paid sick leave at the ratio of one (1) hour's pay for each two (2) hours accumulated, up to a maximum of nine hundred sixty (960) hours of pay.

To be eligible for retirement under this section, the employee shall have worked full-time for the City for at least ten (10) years and shall have attained normal retirement age or have been approved under the pension system for disability retirement.

ARTICLE 10 FUNERAL LEAVE

10.01. If a death occurs within an employee's immediate family, the employee shall be granted funeral leave without loss of pay or benefits, in accordance with the following schedule:

| | <u>Shift Employees</u> | <u>Forty (40) Hour Per Week Employees</u> |
|--|----------------------------|---|
| 1) Spouse, Son, Daughter, Step-Children, Mother, Father, Step-Parents | Two (2) tours of duty | Four (4) days |
| 2) Sibling (including step-sibling or half-sibling), Grandparents, Grandson/Daughter, Mother/Father in-law, Brother/Sister-in-law, Grandparents-in-law | One (1) Tour | Three (3) days |

10.02. Funeral leave may be extended at the discretion of the Director of Safety, based on an individual circumstance. Such extra time off will be utilized out of the employee's paid leave accounts, including holiday, compensatory time, sick time and vacation time.

**ARTICLE 11
EMERGENCY LEAVE**

11.01. In the case of a sudden or serious illness or emergency in the employee's immediate family, and upon securing approval of the Chief of Fire or his designated representative, the employee may be granted time off without any loss of compensation or benefits not to exceed four (4) hours, to aid the family and complete any urgent business concerning the emergency. Upon completion of said emergency, the employee shall return immediately to duty. In the event that an employee is denied emergency leave, said employee has the right to appeal that decision directly to the Chief of Fire. Should the employee be denied emergency leave by the Chief of Fire, the employee shall have the right to appeal to the Safety Director of the City of Avon. Should the employee be denied emergency leave by the Safety Director of the City of Avon, the employee has the right to appeal to the Mayor of the City of Avon.

11.02. If emergency leave is granted and additional time is necessary, the Chief of Fire/designee may approve sick leave or vacation leave as applicable on an hour-for-hour basis as necessary.

**ARTICLE 12
JURY DUTY LEAVE**

12.01. Any employee called for jury duty or subpoenaed as a witness, either Municipal, County, or Federal, shall be granted a leave of absence without loss of pay, benefits, vacation time, or compensatory time for the duration of the required jury duty.

12.02. The leave of absence for jury duty or being subpoenaed as a witness shall begin at twenty-two hundred hours (2200) on the date prior to the first required reporting date. The leave of absence shall continue until the next scheduled duty day following termination of jury duty or subpoenaed witness. However, if the employee is released on or before nineteen hundred (1900) hours, the employee shall return for the remainder of his shift.

12.03. Any compensation received by the employee from the court of record for such jury duty for scheduled work days shall be turned over to the City.

**ARTICLE 13
ON DUTY INJURY LEAVE**

13.01. In the event of an occupational injury incurred as a direct result of performing a lawful and assigned duty or sworn function within the scope of the employee's job duties and authority, said employee shall be entitled to on-duty injury leave in an amount not to exceed one hundred twenty (120) consecutive work days, or in the case of a shift employee, an amount not to exceed fifty (50) twenty-four (24) hour shifts when the injury is timely reported, recommended by the employee's department head/designee, and verified by a competent physician as a disabling injury. The City reserves the right, at its cost, to require the employee to see a physician of its choice before injury leave may be granted.

13.02. To receive on-duty injury leave with pay, the employee must:

- A. Immediately notify the department head/supervisor when an incident or accident occurs.
- B. Complete an Incident/Accident Report to be forwarded to the Department Head and Assistant Finance Director within thirty-one (31) hours of the incident or accident and seek appropriate medical attention. When an employee is hospitalized or otherwise unable to complete the report, the supervisor or department head shall initiate the form.
- C. Complete a Request for Injury Leave form.
- D. Where applicable as requested by the Assistant Finance Director/designee, execute a release (reimbursement agreement), which obligates the employee to reimburse the City the amount of the Workers' Compensation benefits received for lost wages during the same time period the employee collected injury leave. Any employee who applies for lost wages must submit such payments to the City for the period which the employee also received ODIL.
- E. Attend a medical examination/evaluation whenever scheduled with a physician/medical provider selected and paid for by the City.

13.03. Injury leave shall not be cumulative, i.e., an employee may receive injury leave only once for each work-related accident/injury. When an employee requests injury leave for a disputable illness/accident and is denied, the employee may be subsequently credited with such leave upon a favorable decision by the Bureau of Workers' Compensation (BWC), provided that the City may appeal or otherwise contest a decision, in which case, injury leave will be credited only when the City either exhausts its remedies or accepts the judgment rendered by the BWC.

13.04. In the event an employee's claim for medical/lost wages is disallowed by the Bureau of Workers' Compensation or the Industrial Commission of Ohio, the employee shall be charged for all time lost from work, first against sick leave, then against vacation leave and any other accrued compensable leave time. If the employee does not have enough compensable leave to cover all time off, the employee shall be responsible to repay the difference to the Employer.

13.05. An employee may be offered transitional work or modified duty by the City, consistent with the restrictions/limitations of the employee's physician or a physician selected by the City, when determined appropriate by the City, and when the following requirements are met:

- A. The assignment must be medically suitable. The employee must be capable of performing the work without violating any medical restriction or limitation.
- B. The assignment must fulfill a necessary job function or functions. The City shall not be required to "create work" and the availability of work at one time shall not mean that the work will always be available for transitional work within a department or within the City.
- C. The assignment must be anticipated to be temporary.

- D. The employee must have the capability (knowledge, skills, and abilities) necessary to properly perform the work.

The availability of transitional work and/or modified duty assignments is solely determined by the City in consideration of operational and staffing needs as well as capability of the affected employee, is not guaranteed, and is subject to approval of the Mayor/designee.

13.06. An employee forfeits all rights to any on-duty injury leave (wage continuation payments) or transitional work for which the employee would otherwise have been entitled, if the employee:

- A. engages in work with any other entity, whether part-time or full-time, while receiving ODIL payments; however, part-time work will be allowed if the work is consistent with any medical limitations;
- B. terminates employment for any reason;
- C. fails to act in a manner which is conducive to being off work convalescing from a job-related injury;
- D. refuses to perform light, modified, or transitional duty when offered by the City;
- E. refuses to return to regular duty after being released by the treating physician or a physician selected City.

13.07. An employee may return to full duty upon authorization by the employee's attending physician or by a physician of the City's choice. "Authorization" refers to and must include the physician's review of the employee's position description and a certification that the employee is fit to perform the essential duties described therein. In the event of a conflict between the attending physician and the physician selected by the City, the matter of fitness for duty shall be referred to a mutually agreed upon physician (or if mutual agreement is not reached, by a physician selected by the City's MCO) whose opinion shall be binding on the parties. The cost of the third physician shall be born equally between the parties.

13.08. In the event an employee, who is entitled to injury leave, uses the maximum allowable injury leave per injury, and is still unable to return to active duty, an assessment of the status of the injury will be made by the City. If the City determines that within three (3) months from the date the expiration of the original ODIL period the employee should be able to return to work and perform the essential functions of the position, the ODIL may be extended without precedent.

ARTICLE 14 MILITARY LEAVE

14.01. An employee shall be granted a military leave in accordance with Local City Ordinance No. 170-01, or any amendment thereof. However, should any such amendment provide for less than what is provided by state or federal law, the higher standard shall be applied.

**ARTICLE 15
UNIFORM ALLOWANCE**

15.01. Each newly hired full-time firefighter/paramedic shall, during the first year of employment, be provided with uniform items and turnout gear as determined appropriate by the Chief of Fire and as approved by the Director of Public Safety.

15.02. Each full-time employee of the Fire Department, excluding Dispatchers, shall after the first year of full-time employment, receive a yearly uniform allowance of eight hundred fifty dollars (\$850.00). The allowance will increase to nine hundred dollars (\$900.00) beginning in calendar year 2012.

15.03. In the event of damage to uniform items, including watches and prescription eyeglasses, which damage occurs in the active discharge of the employee's duties suppressing fires or performing emergency medical procedures, the City shall pay the difference between the amount of reimbursement from the employee's personal insurance, court ordered recovery and/or workers' compensation, and the cost of repair or replacement at the current fair market value. The City's monetary reimbursement obligation for repair or replacement of the following articles shall not exceed the amounts set forth below:

- | | | |
|----|-------------------------|----------|
| 1. | Watch | \$ 30.00 |
| 2. | Prescription Eyeglasses | \$100.00 |
| 3. | Uniform Jacket | \$200.00 |

Line of duty damage shall be reported immediately to the Chief of Fire. Upon approval of the Chief of Fire and the Director of Safety, the above-noted payment shall be forwarded to the Department of Finance for processing of payment to the employee. Workers' compensation claims will be filed by the employee where applicable. In the event the City reimburses the employee prior to the employee's receipt of personal insurance, court ordered recovery, and/or workers' compensation, reimbursement to the City will be made upon receipt of any monetary award by the employee.

15.04. Annual uniform allowances will be issued to employees currently in active pay status with one-half (1/2) paid in April and one-half (1/2) paid in September.

**ARTICLE 16
LONGEVITY**

16.01. Each full-time employee shall be entitled to and will receive longevity pay under the following schedule:

| Completed Years of Service | Amount |
|-------------------------------|----------|
| 5 | \$500.00 |
| 6 | \$625.00 |
| 7 | \$750.00 |

| | |
|------------|------------|
| 8 | \$875.00 |
| 9 | \$1,000.00 |
| 10 | \$1,125.00 |
| 11 | \$1,250.00 |
| 12 | \$1,375.00 |
| 13 | \$1,500.00 |
| 14 | \$1,625.00 |
| 15 | \$1,750.00 |
| 16 | \$1,875.00 |
| 17 | \$2,000.00 |
| 18 | \$2,125.00 |
| 19 | \$2,250.00 |
| 20 | \$2,375.00 |
| 21 | \$2,500.00 |
| 22 | \$2,625.00 |
| 23 | \$2,750.00 |
| 24 | \$2,875.00 |
| 25 or more | \$3,000.00 |

Longevity pay shall be computed only on years of full-time service with the City, and shall not be pro-rated. Longevity shall be paid in the month of June based upon years of service as of December 31, of the applicable calendar year. An employee leaving the service of the Employer prior to completing a year of service for which he has already been paid longevity shall have such excess longevity amount deducted from his final pay.

ARTICLE 17 HOLIDAYS

17.01. The recognized holidays for full-time bargaining unit employees shall include the following:

1. New Year's Day
2. Martin Luther King Day
3. Easter
4. Memorial Day
5. Independence Day
6. Labor Day
7. Columbus Day
8. Veterans Day
9. Thanksgiving Day
10. Christmas Day

17.02. Shift employees who have completed one (1) year of service as of January 1 of the applicable calendar year shall receive four (4) tours of duty as holiday pay or time in consideration of all of the designated holidays as set forth above, provided the employee works the regularly scheduled days surrounding the holiday, and when scheduled, the holiday itself.

Employees with less than one (1) year of service as of January 1 of the applicable calendar year shall receive holiday time on a pro-rated basis.

Forty (40) hour per week employees who have completed one (1) year of service as of January 1 of the applicable calendar year shall receive eight (8) hours of holiday pay or time, as applicable, for each of the designated qualifying holidays. Employees with less than one (1) year of service as of January 1 of the applicable year shall receive holiday time on a pro-rated basis.

Holiday time not used or scheduled shall be paid in the first pay of December of the applicable calendar year.

17.03. In addition to the recognized holidays set forth above, employees shall be entitled to three (3) floating holidays (i.e., two floating holidays plus the employee's birthday). Each floating holiday shall be equivalent to one (1) twenty-four (24) hour tour for shift employees and one (1) eight (8) hour day for forty (40) hour employees, and may be taken with the prior approval of the Chief/designee. The floating "birthday" holiday can be taken at any time within the calendar year with the prior approval of the Chief/designee. Employees with less than one (1) year of service in the applicable year shall receive floating holiday time on a prorated basis.

17.04.

- A. If a shift employee is required to work on New Year's Day, Thanksgiving Day, or Christmas Day, where such work is a regular shift day (part of his regular tour of duty), he shall be entitled to pay for all hours of such time worked at one and one-half (1 1/2) times his regular base rate of pay (i.e., regular pay plus half-time).
- B. Any employee called in to work on New Year's Day, Thanksgiving Day, or Christmas Day shall be entitled to double time for all such hours actually worked.

ARTICLE 18 VACATIONS

18.01. All full-time bargaining unit employees who have completed one (1) full year of service or more with the Department of Fire shall be eligible for vacation with pay in accordance with the following:

- A. Years of Service Defined. "Years of service," for the purposes of this section, means continuous uninterrupted full-time service, except that military service, authorized paid sick leave, and vacation leave shall not be considered an interruption of service.
- B. Amount of Vacation

Full-time bargaining unit personnel shall be eligible for vacation in accordance with the following schedule:

| <u>Completed Years of Full-Time Service</u> | <u>40 Hours/Week Employees</u> | <u>51.7 Hours/Week Employees</u> |
|---|------------------------------------|--------------------------------------|
| (1) | 80 hours | 120 hours -5 tours |
| (5) | 120 hours | 168 hours -7 tours |
| (10) | 136 hours | 192 hours -8 tours |
| (15) | 160 hours | 216 hours - 9 tours |
| (20) | 200 hours | 264 hours - 11 tours |

Vacation will be credited in accordance with the payroll system(s) adopted by the Department of Finance.

- C. **Vacation Scheduling.** Vacations shall be taken, subject to operational and staffing needs, at a time scheduled and approved by the Chief of Fire/designee, who shall be responsible for the reporting of authorized vacation taken to the Director of Finance/designee.

The Chief of Fire shall determine the number of rank personnel and firefighter/paramedic personnel who may request and be approved for vacation within any given week of the applicable calendar year.

Vacation requests shall be for full work days, except that forty (40) hour employees may split up to two (2) days (sixteen [16] hours) into increments of four (4) hours, shift employees may split up to two (2) tours (forty-eight [48] hours) into increments of twelve (12) hours.

Vacation requests shall normally be submitted at least thirty (30) calendar days in advance of the date(s) being requested. The thirty (30) calendar day requirement may be waived at the discretion of the Chief. In the event of a conflict with another employee requesting the same dates, the employee with the most seniority shall prevail, except that requests encompassing a full calendar week (e.g., Sunday through Saturday) or more will be given preference irrespective of seniority.

18.02. Vacations earned shall be taken within one (1) year from the vacation calculation date, except that each employee shall be able to bank the equivalent of five (5) tours/days (i.e., 120 hours for shift employees and 40 hours for 40 hours per week employees) of vacation time, which must be used during the following calendar year.

18.03. The vacation calculation date shall be December 31 of each year. All vacations earned in the current year will be calculated on the basis of the months or years of continuous service completed by December 31 of the preceding year.

18.04. In the event of termination of employment by an employee, provided that the employee was employed by the City on December 31 of the preceding year, vacation credit shall be calculated in accordance with this subsection for the year in which the employment is terminated, based upon the actual time in the employment of the City during the termination year, and the employee shall be paid as of the termination date in lieu thereof.

If, for any reason, an employee wishes to work rather than take a vacation, there shall be no double pay allowed.

18.05. Commencing January 1, 2005, no vacation leave credit will be given an employee for his or her part-time employment service with the City or with any other state, county, or municipal public sector jurisdiction. Employees are eligible for prior service credit for full-time service with the State of Ohio, Ohio County, or another Ohio city. It is the responsibility of the employee to obtain and submit documentation from previous employers within thirty (30) calendar days of commencement of employment.

ARTICLE 19 HOURS OF WORK

19.01. Hours and Schedules. These provisions are intended to define the normal range of work hours for regular full-time bargaining unit employees for the purposes of overtime compensation, and shall not be considered as a guarantee of work per day or per week. Nothing contained herein shall be construed to prevent the Employer from restructuring the normal work day, work week, platoon system, or from establishing work schedules.

19.02. Work shifts, assignments, and schedules shall be established by the Employer. The normal shift schedule currently consists of a twenty-four (24) hours period on duty, commencing at 7:00 A.M., followed by a forty-eight (48) hours period off duty. Work schedules shall not normally exceed an average of fifty-one and seven tenths (51.7) hours for shift or platoon (shift) employees. The average annual hours for shift employees shall be two thousand six hundred eighty-eight (2,688) hours based upon two hundred six and eight tenths (206.8) average hours in each twenty-eight (28) day work period, and based upon a perpetual calendar. The work year shall consist of fifty-two (52) weeks per year, thirteen (13) twenty-eight (28) day work periods.

The Department of Fire, through the Chief/designee(s), and as approved by the Director of Safety, may institute alternate schedules provided that average hours worked do not exceed 212 hours in a twenty-eight day period. Work shifts shall normally consist of a twenty-four (24) hour period on duty followed by forty-eight (48) hours off duty. Employees will utilize an average of two hundred twenty-four (224) hours of "relief time" or "leveling off time" per work year to attain the average 51.7 hour work week (e.g., ten [10] tours (24 hour days) for one [1] year and nine [9] tours for two [2] years out of a three [3] year cycle). Leveling off time will be scheduled, or authorized with prior approval of the Chief of Fire/designee, during each scheduling period that would exceed permissible straight time hours of work. Leveling off time will be considered an unscheduled day.

The position Captain/Paramedic may be assigned to a forty (40) hour work week schedule at the discretion of the Chief of Fire and with the approval of the Director of Public Safety and the Mayor.

19.03. Basic Rate of Pay. The basic rate of pay or regular rate of pay for a shift position shall be computed on the basis of the applicable annual compensation for the position divided by two thousand six hundred eighty-eight (2688) hours. Shift employees shall be compensated on a

salary basis, based upon an average of 103.4 hours per bi-weekly pay period, provided the employee remains working and/or in active pay status (paid status).

The annual compensation for an employee assigned to a forty (40) hour work week schedule shall be computed based upon the regular hourly rate of pay multiplied by a projected two thousand eighty (2080) hours. In the case of a salaried forty (40) hour per week employee, the annual compensation shall be divided by two thousand eighty (2080) hours to determine the hourly rate equivalent.

19.04. Overtime Pay and Call Back. The Employer shall determine the necessity for excess hours or overtime. When a shift employee is required by the Employer to work in excess of 206.8 hours in a twenty-eight (28) day work period, or the employee works and is active pay status for more than 206.8 hours in a twenty-eight (28) day work period, the employee shall be compensated for all such hours worked or in paid status in excess of the 206.8 hours at time and one-half (1 1/2) his regular pay.

Any bargaining unit shift employee who is called back to duty during an emergency (emergency overtime), where such time does not abut his regularly scheduled shift, shall be guaranteed three (3) hours of call back pay at time and one-half (1 1/2). The Employer shall have the right to retain and require the employee to engage in productive work for the full three (3) hours, at the discretion of the Chief or his designee. This provision shall not apply to any schedule change(s), scheduled overtime, or non-emergency overtime. Unworked minimum call-back hours shall not apply for purposes of overtime computation; however, an employee shall be compensated at the highest of either the actual hours worked or the minimum call-back hours.

Any bargaining unit shift employee who is called back to duty during the three (3) hour period preceding the start of his shift shall be entitled to overtime pay at time and one-half (1 1/2) for actual hours.

There shall be no pyramiding or duplication of overtime and/or premium pay for the same hours; i.e., premium or overtime compensation shall not be paid more than once for the same hours worked.

19.05. At their option, employees may elect to take overtime compensation in the form of pay or compensatory time off. Conversion of overtime to compensatory time is available for whole hour increments only. Employees may not accrue nor use more than one hundred twenty (120) hours of compensatory time at any one time or use more than one hundred twenty (120) hours in any calendar year. If an employee does not indicate an election for compensatory time, or has an accumulation of the maximum number of compensatory hours, the employee shall be paid for the overtime. Requests for overtime compensation or compensatory time shall be made within the same work period the overtime was earned. Compensatory time off shall be scheduled in advance at the request of the employee subject to the approval of the Chief and operational needs.

An employee may convert compensatory time to "cash" in an amount not to exceed fifty (50) hours in any calendar year. Conversion must be requested in writing to the Chief/designee and the Department of Finance at least two (2) weeks in advance of the anticipated conversion.

Compensatory time conversion to cash may occur only in June and/or December of the calendar year.

**ARTICLE 20
WAGES**

20.01. Wages and compensation for bargaining unit employees shall be as set forth below:

2011 (\$1,000 adjustment plus 3%)

| Classification | Weekly Hours | Hourly Equivalent | Annual |
|-----------------------|---------------------|--------------------------|---------------|
| Captain/paramedic | 51.7 | \$29.76 | \$79,994.88 |
| Captain/paramedic | 40 | \$38.46 | \$79,996.80 |
| Lieutenant/paramedic | 51.7 | \$26.61 | \$71,527.68 |
| Firefighter/paramedic | | | |
| 3 years | 51.7 | \$23.80 | \$63,974.40 |
| 2 years | 51.7 | \$22.62 | \$60,802.56 |
| 1 year | 51.7 | \$21.46 | \$57,684.48 |
| Start | 51.7 | \$20.28 | \$54,512.64 |

2012 (2.75%)

| Classification | Weekly Hours | Hourly Equivalent | Annual |
|-----------------------|---------------------|--------------------------|---------------|
| Captain/paramedic | 51.7 | \$30.58 | \$82,199.04 |
| Captain/paramedic | 40 | \$39.52 | \$82,201.60 |
| Lieutenant/paramedic | 51.7 | \$27.34 | \$73,489.92 |
| Firefighter/paramedic | | | |
| 3 years | 51.7 | \$24.45 | \$65,721.60 |
| 2 years | 51.7 | \$23.24 | \$62,469.12 |
| 1 year | 51.7 | \$22.05 | \$59,270.40 |
| Start | 51.7 | \$20.84 | \$56,017.92 |

| 2013 (2.75%) Classification | Weekly Hours | Hourly Equivalent | Annual |
|--------------------------------|-----------------|----------------------|-------------|
| Captain/paramedic | 51.7 | \$31.42 | \$84,456.96 |
| Captain/paramedic | 40 | \$40.61 | \$84,468.80 |
| Lieutenant/paramedic | 51.7 | \$28.09 | \$75,505.92 |
| Firefighter/paramedic | | | |
| 3 years | 51.7 | \$25.12 | \$67,522.56 |
| 2 years | 51.7 | \$23.88 | \$64,189.44 |
| 1 year | 51.7 | \$22.66 | \$60,910.08 |
| Start | 51.7 | \$21.41 | \$57,550.08 |

20.02. Wages for the applicable calendar year shall be effective with the first pay of the calendar year. Newly hired employees shall be hired at the start rate and shall advance on the schedule based upon their full-time hire anniversary rate. However, based upon prior experience, education and/or training, a newly hired employee may be placed at the 1 year or 2 year rate as recommended by the Chief of Fire and approved by the Director of Safety and the Mayor.

An employee who takes a voluntary reduction or who is demoted shall be placed at the applicable step based upon years of full-time service.

Changes in rates of pay shall occur with the pay period that includes the anniversary date.

20.03. Temporary Assignment Pay. Whenever the Chief of Fire assigns a firefighter/paramedic the primary duties and responsibilities of the Lieutenant/shift supervisor, in the absence of a shift commander, for one (1) full twenty-four (24) hour shift or more, the assigned employee shall be entitled to receive ninety-five percent (95%) of the hourly base rate of pay for the lieutenant classification for the period of time served in that capacity. Any such assignment shall be made in writing.

20.04. Mechanic Assignment. Any employee who obtains and maintains an Emergency Vehicle Technician certification and who is assigned by the Chief of Fire to perform mechanic duties and responsibilities (above regular maintenance activities) shall be compensated an additional one dollar and fifty cents (\$1.50) per hour for the period of such assignment. The assignment shall be in writing with a copy to the Safety Director, Finance Department, and Mayor. Not more than one (1) departmental employee shall be assigned mechanic duties and responsibilities at any given time.

ARTICLE 21
HEALTH AND SAFETY

21.01. Safe Equipment and Practices. It is agreed that safety must be a prime concern, commitment and responsibility of both parties. The City agrees to furnish and to maintain in adequate working condition all tools, facilities, vehicles, supplies, and equipment required to carry out the duties of each position as safely as possible. Employees are responsible for reporting any unsafe conditions or practices, and for properly using and caring for all tools, facilities, vehicles, and equipment furnished by the City.

21.02. There is hereby established a Safety Committee consisting of three (3) members of the bargaining unit and three (3) members of the Administration which shall meet on a quarterly basis or as mutually agreed, after a written request from either party.

21.03. The Safety Committee will assemble for the purpose of discussing problems and objectives of mutual concern in regard to safety and health conditions of the Division of Fire.

21.04. Should a situation arise that requires corrective action, the Committee's findings along with a recommendation shall be forwarded in writing to the Fire Chief. His corrective action or reply to the Safety Committee shall be made in writing within fourteen (14) calendar days.

21.05. Should a dispute exist as to the Chief's corrective action or response, the Committee may submit their recommendations to the Safety Director. His reply shall be made within fourteen (14) calendar days to the Safety Committee.

21.06. If the dispute is not settled after the Safety Director's reply or proposed corrective action, the Union Safety Committee and the Fire Chief may meet with the Mayor to discuss the concerns of both parties. The Mayor shall reply, in writing, within fourteen (14) calendar days and such reply shall be final.

21.07. No employee shall be subjected to any disciplinary action for the reasonable reporting of unsafe conditions.

ARTICLE 22
HEALTH CARE BENEFITS

22.01. For the term of this agreement, the Employer agrees to provide bargaining unit employees the same medical insurance (health plan) as provided to other City employees under a group insurance plan. Such group insurance may be provided through a self-insured plan or an outside provider. Cost containment measures may be adopted by the Employer in consideration of projected costs, market availability of coverages, and utilization. The City shall meet and confer with the Unions (all recognized bargaining units) regarding health care providers and levels of coverage, but the City shall make the final determination if a consensus is not reached.

22.02. The City agrees to pay eighty percent (80%) of the premium/contribution costs for health coverage for each eligible full-time employee enrolled in any of the health coverage plans offered by the City.

The election of single or family coverage rests with the eligible bargaining unit employee.

Each eligible bargaining unit employee electing (single or family) coverage shall pay 20% of the monthly premium/contribution cost.

Employee contributions shall be paid by the participating employee through payroll deduction.

22.03. Any full-time bargaining unit employee may waive health plan coverage and be paid one hundred twenty dollars (\$120.00) per month in lieu of such coverage. The waiver must be requested, in writing, to the Finance Director thirty (30) days prior to the beginning of any billing cycle. Applicable waiver amounts are payable by the City to the applicable employee(s) in June and December of each year. Employees may elect to enroll in the health plan by submitting prior written notification to the Finance Director. Health coverage will commence with the applicable date following the next open enrollment period. At the time of actual enrollment, the employee shall forfeit the waiver. Notwithstanding the provisions above, if a change of status occurs which meets plan requirements, an employee may elect to enroll in the health plan by submitting prior written notification to the Finance Director and coverage shall commence in accordance with the terms of the plan.

22.04. The City, at its sole cost and expense, shall provide each full-time employee with group life insurance coverage in the face amount of thirty thousand dollars (\$30,000).

22.05. The Employer is amenable to the establishment of a Health Care Review Committee (HCRC) consisting of one (1) voting representative and one (1) alternate from each of the recognized Unions (i.e., IAFF, AFSCME, FOP/OLC, and TEAMSTERS) and four (4) voting representatives and four (4) alternates from the Administration. The parties recognize that all of the recognized unions must agree to participate and abide by the terms set forth herein in order for the HCRC to be effective.

The HCRC shall meet to review health care utilization and options, and to make recommendations for cost containment provisions/coverage modification to the Mayor. Any recommendation(s) submitted by a three-fourths (3/4) vote of the HCRC and approved by the Mayor will be implemented.

ARTICLE 23 GRIEVANCE PROCEDURE

23.01. The term grievance shall mean an allegation by a bargaining unit employee or the Union that there has been a breach, misinterpretation, or misapplication of the express terms of this agreement. Disciplinary action resulting in reduction or loss of position or loss of pay of more than one (1) work day (twenty-four [24] hours) is grievable and arbitrable. Disciplinary action of a written reprimand through a one (1) day suspension (twenty four (24) hours, is grievable through Step 4, but not arbitrable. Up to and including Step 3 of the grievance procedure, every employee shall have the right to present grievances and have them adjusted, without the intervention of the Union or its representatives, as long as the adjustment is not inconsistent with the written terms of this agreement. The Union shall be advised of any adjustment of a grievance and shall be provided the opportunity to be present at any Step 3 hearing. Where a group of

B. Step 2 - Formal

Any grievance that is not resolved at the informal level must be presented, in writing, to the Chief of Fire within fifteen (15) calendar days of the occurrence of the alleged grievance, or knowledge of the occurrence, not to exceed the time frame set forth in Section 23.02 herein. Grievances presented beyond the fifteen (15) day time limit shall not be considered. The Chief of Fire may hold a meeting to discuss such grievance and shall provide a written answer to the grievant and the Union within one (1) week after its receipt or the date of the meeting, whichever is applicable. If a grievance meeting is held, the grievant shall be entitled to Union representation at said meeting.

C. Step 3 - Director of Public Safety

If the grievant is not satisfied with the resolution at Step 2, he may appeal to the Director of Public Safety or designate, in writing, within one (1) week (seven [7] calendar days) after receipt of the Step 2 answer. The grievance, written response, and any other pertinent documents shall be submitted with the appeal. The Director of Public Safety or designee shall hold a meeting with the grievant within one (1) week after receipt of the grievance and shall answer the grievance in writing within one (1) week of such meeting, with a copy to the grievant/Union. The grievant shall be entitled to Union representation at said meeting.

D. Step 4 - Mayor

If the grievant is not satisfied with the written decision at the conclusion of Step 3, a written appeal of the decision may be filed with the Mayor within seven (7) calendar days from the date of the rendering of the decision in Step 3. Copies of the written decisions and other pertinent documents shall be submitted with the appeal. The Mayor or his designee shall convene a hearing within ten (10) calendar days of the receipt of the appeal. The hearing will be held with the grievant, his Union representative, and any other party necessary to provide the required information for the rendering of a proper decision. The Mayor or his designee shall issue a written decision to the grievant, with a copy to the Union representative, within fifteen (15) calendar days from the date of the hearing. If the Union is not satisfied with the decision at Step 4, the Union may proceed to arbitration pursuant to the arbitration procedure set forth in Step 5 below.

E. Step 5 - Arbitration

If the grievance is not satisfactorily resolved at Step 4, the Union may file a request for arbitration. The Union must file such request within thirty (30) calendar days of the Step 4 decision from the Mayor or designee. A request to the American Arbitration Association (AAA), or FMCS if mutually agreed, for a list of fifteen (15) arbitrators must be submitted simultaneously with the request submitted to the Mayor. The parties shall utilize the alternate strike method for selection, with the moving party striking first.

The arbitrator will be selected pursuant to the procedures of the AAA (or FMCS) except as may be modified herein. Either party may reject up to two (2) lists and request another list.

The fees and expense of the arbitrator shall be borne by the losing party unless the parties mutually agree otherwise, in writing. The aggrieved employee, appropriate Union representative, and any witness(es) shall not lose any regular straight time earnings while attending arbitration proceedings. The decision of the arbitrator shall be final and binding on the parties.

The arbitrator shall limit his decisions strictly to the interpretation or application of the specific articles and sections of this agreement, and he shall be without power or authority to make any decision:

1. contrary to or inconsistent with or modifying or varying in any way the terms of this agreement or of any applicable laws;
2. limiting or interfering in any way with the powers, duties, or responsibilities of the Avon City Council or the Mayor/designee under their rule making powers not inconsistent with the written provisions of this agreement;
3. contrary to, inconsistent with, changing, altering, limiting, or modifying any policy, rules or regulations presently or in the future established by the Employer so long as such policy, rules and regulations do not conflict with the written provisions of this agreement;
4. implying any restrictions or condition upon the Employer from this agreement, it being understood that, except where such restrictions or conditions upon the Employer as are specifically set forth herein, the matter in question remains within the exercise of rights set forth in the article of this agreement entitled "Management Rights;"
5. granting any right or relief of any alleged grievance occurring at any time other than the contract period in which such right originated.

The question of arbitrability of a grievance may be raised by either party before arbitration hearing of the grievance, 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. The merits of the grievance will also be presented to the same arbitrator at the same hearing.

ARTICLE 24 DISCIPLINARY PROCEDURE

24.01. The tenure of every employee subject to the terms of this agreement shall be only during good behavior and efficient service. The Employer may take disciplinary action against any employee in the bargaining unit for just cause. Forms of disciplinary action may include any of the following:

- A. Instruction and cautioning (documented oral warning).
- B. Written reprimand.

- C. Suspension without pay or fine.
- D. Reduction in pay and position (demotion).
- E. Discharge.

Except in instances of serious misconduct, discipline shall normally be applied in a corrective manner. In determining the appropriate level of discipline, the Employer shall take into account the nature of the violation, the employee's record of discipline, the employee's record of performance and conduct, and the impact of the conduct upon the Department and the City. Copies of written disciplinary action excluding a documented oral reprimand shall be forwarded to the Union representative of record.

24.02. Whenever the Employer determines that an employee may be reduced in pay or position (i.e., suspended, demoted, or discharged for just cause), a predisciplinary hearing will be scheduled to give the employee an opportunity to offer an explanation of the alleged misconduct. A notice of the predisciplinary conference shall be provided to the employee and shall contain a general description of the alleged misconduct and a statement that the employee shall have the right to have a Union representative present at the conference if he so desires. When possible, the date and time of the predisciplinary conference may be extended to accommodate a desired Union representative. If immediate attention is required, an alternate representative will attend. In any event, predisciplinary hearings shall be completed within fourteen (14) calendar days of presentation to the employee of the alleged misconduct.

Predisciplinary hearings will be conducted by a representative of the Employer (hearing administrator). The employee may choose to:

- A. Appear at the hearing to present oral or written statements in defense.
- B. Appear at the hearing to present oral or written statements in defense with a Union representative present.
- C. Elect in writing to waive the opportunity to have a predisciplinary hearing. Failure to elect and pursue one of these three (3) options will be deemed a waiver of the predisciplinary hearing.

At the predisciplinary hearing, the hearing administrator will ask the employee to respond to the allegations of misconduct as outlined to the employee. At the hearing, the employee may present any testimony, witnesses, or documents which explain whether or not the alleged misconduct occurred and may confer with his Union representative. The hearing administrator may require the employee to respond directly to any inquiry. The employee shall provide a list of witnesses and the name of his representative, if any, to the Employer as far in advance as possible, but no later than twenty-four (24) hours prior to the predisciplinary hearing. It is the employee's responsibility to notify his Union representative and witnesses that he desires their attendance at the hearing.

A written report will be prepared by the hearing administrator concluding whether or not the alleged misconduct occurred. The Employer will decide what discipline, if any, is appropriate. A copy of the hearing administrator's report will be provided to the employee, and the Union representative if applicable, within ten (10) calendar days following the hearing. Any resulting disciplinary action will be issued within fourteen (14) calendar days of the issuance of the hearing administrator's findings.

24.03. Disciplinary action involving reduction/loss of position or reduction in pay of more than one (1) work day (twenty-four [24] hours) may be appealed through the grievance procedure set forth herein. Appealable disciplinary actions must be filed at the Director of Public Safety's level (Step 3) of the grievance procedure within ten (10) calendar days of the issuance of the notice of discipline to the employee.

24.04: Any employee under indictment or arrested for a crime of moral turpitude who is not disciplined or discharged by the Employer shall be placed on a leave of absence with pay until resolution of the court proceedings. An employee may use accrued vacation or holiday time during the leave. An employee found guilty by the trial court shall be summarily discharged. An employee found innocent of the charges may be returned to work or placed on administrative leave and shall have any vacation or holiday time used restored to his credit, and may be subject to disciplinary action if such action was held in abeyance. The Employer shall continue to pay the Employer's share of the health premium/contribution during the leave of absence; however, if the employee is summarily discharged, the amount of such premium/contribution shall be reimbursed to the City by the employee.

24.05. Any investigations, interviews, and disciplinary procedures shall be conducted in a professional manner. Discipline and/or corrective action shall be conducted in a private manner and not in the presence of the employee's co-workers or the public.

24.06. An employee who has successfully completed the initial probationary period shall, upon request, have the right to have a Union representative present at any investigation or interview where the employee reasonably believes that he may be the subject of disciplinary action as the result of such investigation/meeting. It is understood that at any time during an investigatory interview, when the interview moves from investigatory to accusatory, or the employee reasonably believes disciplinary action may result against him, the employee has the right to halt the interview until Union representation is acquired and present.

24.07. Cease To Have Force And Effect. Written reprimands and warnings shall cease to have force and effect one (1) year from the date of the discipline provided no other related documented disciplinary action has occurred during that period.

Suspensions, fines, or demotions shall cease to have force and effect five (5) years after the date of the discipline provided no other documented disciplinary action has occurred during the period.

**ARTICLE 25
SHIFT EXCHANGE**

25.01. Employees shall have the right to exchange hours when said change does not, in the opinion of the Shift Commanders (where applicable) and Fire Chief, interfere with the operation of the Division of Fire. All said exchanges are subject to the advance approval of the Fire Chief.

25.02. All exchanges shall be submitted to the Fire Chief for approval at least seventy-two (72) hours prior to the trade. The Chief may waive the minimum notice requirement, at his discretion, based upon operational needs and/or extenuating circumstances.

25.03. Approval of hour exchanges shall normally be made within forty-eight (48) hours of submission of the request. The Chief may, at his discretion, establish minimum hours subject to exchange and/or a maximum number of exchanges which may be approved within any work period.

25.04. In no event shall an exchange of hours result in overtime compensation.

**ARTICLE 26
PENSION**

26.01. The City will pay that portion of the employee's pension to the Police and Fireman's Pension Fund as mandated by the State of Ohio.

26.02. Arrangements exist with the Internal Revenue Service and the Police and Fireman's Pension Fund to have federal and state taxes, which are due on the employee's contribution to the respective retirement fund, deferred until retirement (commonly known as the Employer "pick up" program). The City agrees to participate in said program in accordance with applicable law.

**ARTICLE 27
DUES CHECKOFF**

27.01. The Employer agrees to deduct Union membership dues in accordance with this article for all employees who execute a dues authorization card. Deductions shall commence with the first pay period in which dues are customarily deducted following receipt of the signed authorization card.

27.02. The Employer shall remit dues deducted under this article to the Union Treasurer along with an alphabetical list of names of all employees whose dues have been deducted. The Union shall notify the Employer in writing of the name and address to whom the dues are to be sent.

27.03. The Employer assumes no obligation of any kind arising out of its deduction of dues in accordance with this article. The Union shall indemnify and save the Employer harmless from any claim, action, or proceeding brought by any person or entity against it as a result of its deduction of dues pursuant to this article. Once dues are remitted to the Union, their disposition thereafter shall be the sole obligation and responsibility of the Union.

27.04. The Employer shall be relieved from making dues deductions when an employee terminates his employment, transfers to a position outside of the bargaining unit, is laid off from work, is on unpaid leave of absence, for any reason fails to earn sufficient wages to make all legally required deductions in addition to the deduction of Union dues, or revokes his authorization.

27.05. Neither the Union nor any employee shall have a claim against the Employer for any error made in processing deductions unless a written claim of error is submitted to the Employer not more than sixty (60) calendar days after the error was made. Verified errors will be corrected by appropriate deductions from the next pay check from which dues are customarily deducted. Individual reimbursements due, exceeding seventy-five dollars (\$75.00) will be corrected not later than the next pay period.

27.06. The amount of dues to be deducted shall be certified to the Employer, in writing, by the Union. Changes in rates of deduction shall be effective thirty (30) calendar days after written notice is received by the Employer, or on the next pay day from which dues are customarily deducted, whichever is later.

Fair Share Fees

27.07. Each bargaining unit employee who is not a member of the Union shall, as a condition of employment, pay a fair share fee to the Union. The fair share fee obligation shall commence on:

- A. The effective date of this agreement for all current employees who have been employed for more than sixty (60) calendar days.
- B. The sixty-first (61st) calendar day of employment for all current employees who have not completed sixty (60) calendar days of employment as of the effective date of this agreement.
- C. The sixty-first (61st) calendar day of employment for each employee hired after the effective date of this agreement.

27.08. Fair share fees shall be paid by automatic payroll deduction. Fair share fee deductions do not require prior authorization from the affected employee. Fair share fees shall be deducted in amounts determined by the Union in accordance with applicable law. No fair share fees shall be deducted by the Employer until the Union gives specific written direction as to the amount of such fair share fees.

27.09. Fair share fee payroll deductions and transmittals shall be made in the same manner provided herein for dues deductions. The Employer shall provide the Union an alphabetical list of the names of each employee on whose account a fair share fee was deducted during the previous month including the amount of the deduction.

27.10. The Employer's obligation to deduct fair share fees is contingent upon the Union's fulfillment, on the behalf of each non-member, bargaining unit employee, to prescribe a rebate

and challenge procedure which complies with applicable state and federal laws. The amount of fair share fee charged shall not exceed the amount which is allowable by law.

27.11. Changes in the amounts to be deducted shall become effective on the thirtieth (30th) calendar day after their actual receipt by the Employer.

27.12. The Union warrants and guarantees to the Employer that no provision of this article violates the constitution or laws of either the United States of America or the State of Ohio. Therefore, the Union hereby agrees that it will indemnify, defend and hold the Employer harmless from any claims, actions or proceedings by any employee arising from deductions made by the Employer pursuant to this article. Once the funds are remitted to the Union, their disposition thereafter shall be the sole and exclusive obligation and responsibility of the Union.

ARTICLE 28 PAYMENT TO ESTATE UPON DEATH

28.01. In case of death of an employee, any earned but unused regular pay, compensatory time, or vacation time shall be paid to his spouse, or if no spouse exists, to his estate. Accrued sick time, for an employee with at least ten (10) years of full-time service, shall be paid to the spouse or estate at the ratio of one day's pay for each two (2) days earned.

ARTICLE 29 EDUCATIONAL CREDIT

29.01. Any full-time bargaining unit employee within the Department of Fire who has obtained an Associate's Degree in fire science or in a field related to the position held by the employee as approved by the Director of Safety and the Mayor shall receive six hundred fifty dollars (\$650.00) additional compensation annually, prorated in the year of completion. This compensation shall be paid in the first pay period of December.

29.02. Any full-time bargaining unit employee within the Department of Fire who has obtained a Bachelor's Degree in fire science or in a field related to the position held by the employee as approved by the Director of Safety and the Mayor shall receive one thousand dollars (\$1,000.00) additional compensation annually, prorated in the year of completion. This compensation shall be paid in the first pay period of December.

ARTICLE 30 SAVINGS CLAUSE

30.01. Should any part of this agreement or any specific provisions contained herein be declared invalid by operation of applicable law or by a court of competent and final jurisdiction, it shall be of no further force and effect, but such invalidation of a part or provision of this agreement shall not invalidate the remaining portions and they shall remain in full force and effect. In such event, the Employer and the Union will, at the written request of either party hereto, promptly enter into discussions relative to the particular provision(s) deemed invalid or unenforceable. Should the parties reach mutual agreement on an alternate provision(s), such agreement shall be reduced to writing and signed by both parties.

**ARTICLE 31
SENIORITY AND LAYOFFS**

31.01. Seniority shall be based upon full-time continuous service in the Avon Fire Department calculated from the original date of full-time employment with the Avon Fire Department.

Continuous service shall be broken only by resignation, discharge, or other separation from service lasting thirty-one (31) calendar days or more. Employees with the same employment date shall be assigned to the seniority list in order of their part-time seniority and thereafter based upon their rank on the Civil Service Eligibility List. Employees who are promoted to the next higher rank within the bargaining unit shall be credited with seniority in rank based upon the date of the promotion.

31.02. The Employer shall post and maintain annually a current seniority list. The seniority list shall be utilized whenever called for by specific articles and sections of this agreement.

31.03. The Employer shall determine when personnel reductions within the bargaining unit are necessary, for the purpose of layoff due to lack of work, lack of funds or job abolishment. The Employer shall determine the classifications and number of positions to be affected by a layoff. Within each classification layoff shall occur by inverse order of seniority (least senior first). If a position(s) is above the rank of Firefighter/paramedic, the least senior officer in point of service in the affected rank classification shall be reduced to the next lower rank, and the least senior officer in point of service in such lower rank shall be reduced, until the least senior person in point of service in the classification of Firefighter/paramedic has been reached and he shall be laid off. The Employer shall notify affected employees in writing at least seven (7) calendar days in advance of the effective date of the layoff.

31.04. For the purpose of reduction, "rank" shall be defined in order from highest to lowest as Captain/paramedic, Lieutenant/paramedic and Firefighter/paramedic.

31.05. Employees who are laid off will be placed on a recall list for a period of one (1) year from the effective date of the layoff. Recall from layoff will be made in reverse order of layoff; that is, the last employee placed on layoff from a classification will be the first to be recalled. Employees shall be given fourteen (14) calendar days advance notice of recall and such notice shall be sent by certified mail to the employee's last address on record. Employees shall have five (5) calendar days to accept or reject the Employer's offer of recall. Employees rejecting recall or failing to report to work on the effective date of the recall shall lose all seniority and rights of recall.

**ARTICLE 32
BARGAINING UNIT APPLICATION OF CIVIL SERVICE LAW**

32.01. The parties agree that no section of the Civil Service Laws contained in Chapter 124 of the Ohio Revised Code or Section 9.44 ORC or as adopted by the City of Avon, nor any local City ordinances pertaining to wages, hours, terms and other conditions of employment, shall apply to bargaining unit employees, where the general or specific matter has been addressed by this agreement.

32.02. Notwithstanding Section 1 above, the parties agree that the conduct and grading of civil service examinations (as related to the City of Avon Civil Service Commission), the establishment of eligible lists from examinations, the original appointments from the eligible lists, and promotional examinations and appointments shall continue to be governed by City Charter, local statutes, ordinances, and the Civil Service Commission Rules and Regulations of the City of Avon, as may be applicable.

32.03. Sections 124.388 and 124.57 ORC shall continue to apply to bargaining unit employees.

ARTICLE 33 LABOR-MANAGEMENT CONFERENCE

33.01. In the interest of effective communications, either party may at any time request a Labor-Management Conference at least once per quarter, unless both parties agree to meet more frequently. Such request shall be made in writing and be presented to the other party fourteen (14) calendar days in advance of the requested meeting date. The written request shall include an agenda of items the party wishes to discuss and the names of those representatives who will be attending. A Labor-Management Conference shall be scheduled within ten (10) days of the date requested. Additionally, this process may be expedited upon mutual agreement of the parties. The parties are not obligated to discuss any issue not listed upon the exchanged agendas. Nothing herein shall preclude the parties from meeting on an informal basis as deemed appropriate.

33.02. The purpose of such conference shall be limited to:

- A. notifying the Union of changes made by the Employer which affect bargaining unit employees;
- B. disseminating general information of interest to the parties;
- C. giving the Union representative the opportunity to share the views of their members and/or make suggestions on subjects of interest to their members;
- D. discussing substantial changes in job duties and responsibilities;
- E. discussing the administration of this agreement.

33.03. There shall be no more than three (3) employee Union representatives in attendance at the Labor-Management Conference. There shall be no more than three (3) management employee representatives at the conference.

ARTICLE 34 WAIVER IN CASE OF EMERGENCY

34.01. In cases of emergency declared by the President of the United States, the Governor of the State of Ohio, the Board of Lorain County Commissioners, the federal or state legislature, City

Council, or the Mayor, such as acts of God, acts of terror, or civil disorder, the following conditions of this agreement may automatically be suspended at the discretion of the Employer:

1. Time limits for management replies on grievances or Union submissions of grievances.
 2. Any or all agreements and practices relating to the assignment of employees; except that it is agreed that there shall be no loss of overtime/premium pay earned as set forth in this agreement, unless otherwise mutually agreed upon between the parties.
- 34.02. Upon the termination of the emergency, should valid grievances exist, they shall be processed in accordance with the provisions outlined in the grievance procedure and shall proceed from the applicable point in the grievance procedure to which they had properly progressed.

ARTICLE 35 MILEAGE

35.01. All regular full-time employees required to use their personal car in the performance of their job duties for the Employer shall be reimbursed only for such actual mileage at the rate of the current IRS rate per mile, but the employee shall not be entitled to reimbursement unless the use of the employee's car was authorized by the Mayor or designee.

35.02. Verification of expenses by the Department Head/designee must be submitted to the Finance Director along with an expense account voucher in order to receive payment as specified in Section 1 herein.

ARTICLE 36 DURATION OF AGREEMENT

36.01. This agreement shall be effective as of January 1, 2011, and shall remain in full force and effect until 12:00 midnight, December 31, 2013, unless otherwise terminated as provided herein.

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

36.03. The parties acknowledge 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, and that the understandings and agreement arrived at by the parties after the exercise of that right and opportunity are set forth in this agreement. The provisions of this agreement constitute the entire agreement between the Employer and the Union, and all prior agreements, either oral or written, are hereby canceled. The Employer and the Union, for the life of this agreement, recognize the right of the Employer to exercise its management rights and statutory rights relative to matters not contemplated or addressed specifically herein, provided the exercise of such rights do not conflict with an express provision

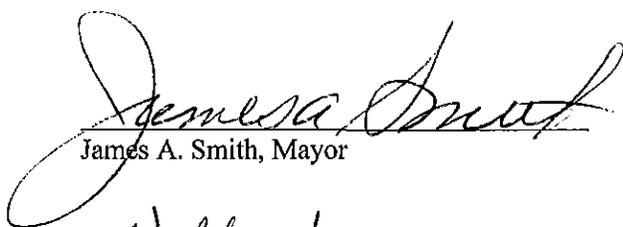
of this agreement. This agreement may only be amended or modified during the life of the agreement by the express, mutual written consent of both parties.

SIGNATURE PAGE

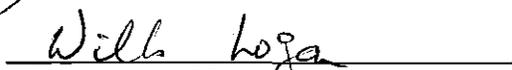
IN WITNESS WHEREOF, the parties have caused this agreement to be executed on this 30th day of December 2010.

For the City of Avon

For the IAFF Local #4310, AFL-CIO

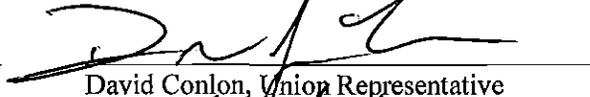

James A. Smith, Mayor


Michael Panehal, Union President

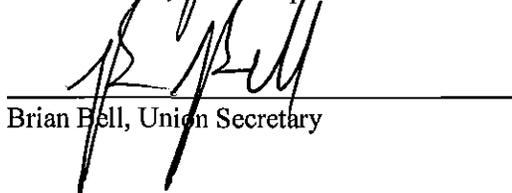

William Logan, Finance Director


David Swope, Union Officer Representative

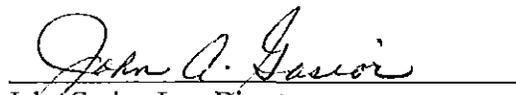

June Mitchell, Assistant Finance Director


David Conlon, Union Representative


Sandy Conley, Chief Spokesperson


Brian Bell, Union Secretary

Approved as to form:


John Gasior, Law Director

SIDE LETTER OF AGREEMENT

Notwithstanding the provisions of Article 9, Section 9.11, the City of Avon, "Employer," and the IAFF Local 4310, "Union," do hereby agree to "grandfather" the current forty (40) hour per week Captain (Emling) from the limitations added to Article 9, Section 11, in the 2010 successor negotiations. Captain Emling shall therefore be eligible for conversion of sick leave upon service or disability retirement up to a maximum of twelve hundred (1,200) hours of pay. The ratio of one (1) hour of pay for each two (2) hours of accumulated sick leave shall continue to apply.