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COLLECTIVE BARGAINING AGREEMENT



BETWEEN THE

CITY OF NEWARK, OH

AND THE

INTERNATIONAL ASSOCIATION

OF

FIREFIGHTERS

LOCAL 109

JANUARY 1, 2017

THROUGH

DECEMBER 31, 2019

**CITY OF NEWARK AND FIREFIGHTERS LOCAL 109 BARGAINING UNIT AGREEMENT
JANUARY 1, 2017 THROUGH DECEMBER 31, 2019**

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PREAMBLE/PURPOSE

Header Clause: The headings and captions used in the agreement are for reference purposes only and do not have any effect on the substance, interpretation, or application of the agreement.

This Agreement, entered into by the City of Newark, Ohio, hereinafter referred to as the “Employer” and the International Association of Firefighters, Local 109, hereinafter referred to as the “Union”, has as its purpose the following:

- To achieve and maintain a satisfactory and stabilized employer/employee relationship and to promote improved work performance;
- To provide for the peaceful and equitable adjustment of differences which may arise;
- To attract and retain qualified employees by providing those benefits compatible with the financial resources of the City;
- To assure the effectiveness of service by providing an opportunity for employees to meet with the Employer to exchange views and opinions on policies and procedures affecting the conditions of their employment, subject to the applicable provisions of the State of Ohio Revised Code, State and Federal Laws, and the Constitution of the State of Ohio and the United States of America:
- To ensure the right of every employee to fair and impartial treatment;
- To provide an opportunity for the Union and the Employer to discuss wages, benefits, and conditions of employment. This Agreement pertains to all employees within the bargaining unit defined hereunder;
- To provide for orderly, harmonious, and cooperative employee relations in the interest, not only of the parties, but of the citizens of Newark, Ohio.

ARTICLE 1

RECOGNITION

Section 1.1 **Exclusive Representative, Bargaining Unit** The Employer hereby recognizes the Union as the exclusive representative for all employees included in the bargaining unit. Wherever used in this Agreement, the term “bargaining unit” means all full-time City firefighters, including those holding the rank of Firefighter, Firefighter/Paramedic, Lieutenant, Captain, Assistant Chief, excluding the Fire Chief and the Deputy Fire Chief.

Section 1.2 **Bargaining Unit Exclusions** All positions and classifications, not specifically established herein as being in the bargaining unit shall be excluded from the bargaining unit.

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ARTICLE 3

NON-DISCRIMINATION

Section 3.1 **Pledge** The provisions of this Agreement shall be applied equally to all employees in the bargaining unit in a fair and impartial manner without discrimination as to age, sex, marital status, race, color, creed, national origin, disability or political affiliation. The Union shall share equally with the Employer the responsibility for applying this provision of the Agreement provided that a grievance is filed alleging a violation of this section. If such a grievance is filed, the Union may investigate the allegations raised in the grievance and may recommend that the employer take disciplinary action or other appropriate steps to remedy the discrimination. Sexual harassment shall be considered discrimination and neither the City nor Local 109 will condone such activity.

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

Section 3.3 **Union Membership** The Employer agrees not to interfere with the rights of employees to become members of the Union, and there shall be no discrimination, interference, restraint, or coercion by the Employer or any Employer representative against any employee because of Union membership or because of any legal employee activity in an official capacity on behalf of the Union.

Section 3.4. **Union Responsibilities** The Union recognizes its responsibility as bargaining agent and agrees to equally represent all employees in the bargaining unit without discrimination, interference, restraint or coercion.

Section 3.5 **Grievance Process** The Union agrees not to interfere with the rights of employees to be non-union members or process a grievance in accordance with Ohio law.

Section 3.6 **Equal Opportunity** We conform to all the laws, statutes, and regulations concerning equal employment opportunity and affirmative action. We strongly encourage women, minorities, individuals with disabilities and veterans to apply to all of our job openings. We are an equal opportunity employer and all qualified applicants will receive consideration for employment without regard to race, color, religion, gender, sexual orientation, gender identity, or national origin, age, disability status, genetic information and testing, family and medical leave, protective veteran status, or any other characteristic protected by law. We prohibit retaliation against individuals who bring forth any complaint, orally or in writing, to the employer or the government, or against any individuals who assist or participate in the investigation of any complaint or otherwise oppose discrimination.

ARTICLE 4

UNION SECURITY

Section 4.1 **Union Dues** As a condition of continued employment with the City of Newark, Department of Public Safety, Division of Fire, and commencing on the sixty first (61st) day following the beginning of employment, all employees of the bargaining unit who are not members of the Union shall pay to the Union, as hereinafter provided, a fair share fee. This provision shall not be interpreted to require any employee to become a member of the Union, nor shall fair share fees exceed dues paid by members of the Union.

The Union agrees to prescribe an internal procedure to determine a rebate, if any, for non-members which conform to Federal law, for those occasions where a non-member makes a timely

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demand upon the Union. Absent arbitrary and capricious action, such determination is conclusive on the parties except that a challenge to such determination may be filed with the State Employment Relations Board within thirty (30) days of the determination date specifying the arbitrary or capricious nature of the determination of the State Employment Relations Board shall review the rebate determination and decide whether it was arbitrary or capricious. The deduction of a fair share fee by the Employer from the payroll check of the employee and its payment to Union is automatic and does not require the written authorization of the employee.

The internal rebate procedure shall provide for a rebate of expenditures in support of partisan politics or ideological causes not germane to the work of employee organizations in the realm of collective bargaining.

Any public employee who is a member of and adheres to established and traditional tenets or teaching of a bonafide religion or religious body which has historically held conscientious objections to joining or financially supporting an employee organization and which is exempt from taxation under the provisions of the Internal Revenue Code shall not be required to join or financially support any employee organization as a condition of employment. Upon submission of proper proof of religious conviction to the State Employment Relations Board, the Board shall declare the employee exempt from becoming a member of or financially supporting an employee organization. The employee shall be required, in lieu of the fair share fee, to pay an amount of money equal to such fair share fee to a non-religious charitable fund exempt from taxation under Section 501(C)(3) of the Internal Revenue Code mutually agreed upon by the employee and Union's Financial Secretary. The employee shall furnish to the employee organization written receipts evidencing such payment, and failure to make such payment or furnish such receipts shall subject the employee to the same sanctions as would non-payment of dues under this Agreement.

It is agreed that the Union shall indemnify and hold harmless the City from any and all claims, demands, and expenses incurred in the defense against such claims and demands, made by an employee in the bargaining unit against the City as a result of the Union's establishment of an amount which it considers to be a fair share fee and/or Union dues and the Union's management of the rebate procedure.

Within the above limits, the Employer shall provide a check-off on the wages of any employee eligible for inclusion in the bargaining unit for the payment of regular monthly Union dues and/or fair share fees upon receipt of a certified list of employees from the Financial Secretary of the Union designating those employees in the bargaining unit who are subject to the Union dues and/or fair share fee. With reference to bargaining unit employees who are also Union members, the certification shall be accompanied by a voluntarily signed authorization of an employee on a form provided by the Union authorizing the Newark City Auditor to provide a check-off on the wages of any Union member for the payment of regular monthly Union dues.

Such written authorization by the employee for dues check-off shall be valid for the duration of this Agreement unless such authorization is withdrawn by written notice served upon the City Auditor by the employee. Any costs in making such voluntary check-off, except as discussed above, shall be borne by the Employer.

The total amount of deductions for Union dues and fair share fees shall be remitted each month by the Employer to the Financial Secretary of the Union. Once the funds are remitted to the Union, their disposition thereafter shall be the sole and exclusive obligation and responsibility of the Union.

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Section 4.2 Check Off Exemption The Employer shall be relieved from making such “check-off” deduction, whether for Union dues or fair share fees, upon (a) termination of employment, or (b) transfer to a job other than one covered by the bargaining unit, or (c) layoff from work, or (d) an agreed leave of absence, or (e) revocation of the check-off authorization in accordance with its terms or with applicable law, or (f) illegal job action.

Section 4.3 Insufficient Wagers The Employer shall not be obligated to make dues deductions of any kind from any employee who, during any dues period involved, shall have failed to receive sufficient wages to equal the dues deductions. This rule is also applicable to fair share fee situations.

Section 4.4 Claims of Error Notwithstanding the other Sections of this Article, it is agreed that neither the employees nor the Union shall have a claim against the employer for errors in the processing of deductions unless a claim of error is made to the Employer in writing within thirty (30) days after the date such an error is claimed to have occurred. If it is found an error was made, it will be corrected at the next pay period that Union dues will normally be made. Payroll collection of dues and fees shall be authorized for the exclusive bargaining agent only, and no other organization attempting to represent the employees within the bargaining unit as herein determined.

Section 4.5 Cancellation of Dues All dues and fees deductions, at the Employer’s option upon written notice by certified mail to the Union representative, may be canceled upon the termination date of this Agreement. All dues and fees deductions for any month in which Union members individually or collectively engage in a strike, may be canceled at the Employer’s option without advance notice to the Union.

ARTICLE 5 UNION REPRESENTATION

Section 5.1 Union Representation The Union representatives shall confine their Union activities to the investigation and processing of grievances, or attending meetings as authorized by this Agreement, so as not to interfere with any employee’s normal assigned work location, until released by the Fire Chief or designated representative, which release shall not be withheld where the Union gives the Chief (or his/her designated representative) seventy-two (72) hours advance, written notice or, if it is impossible to give seventy-two (72) hours advance, written notice, such other notice as is feasible. Union representatives shall not utilize City vehicles for travel to conduct Union business, except to the extent authorized in advance by the Fire Chief, or his/her designated representative.

Section 5.2 Union Leave For Seminar, etc. Any Union representative shall cease unauthorized Union activities immediately upon any order by the supervisor of the area in which the Union activity is being conducted, or upon the order of the platoon supervisor. Any violation of the rules of this Article shall subject the employee to disciplinary actions.

The Union shall be credited each calendar year a total of two hundred sixteen (216) hours, which may be used by uniformed personnel of the Division of Fire for attending conferences, seminars, district meetings, and Union activities upon the prior written approval of the Fire Chief, which approval shall not be withheld where the Union gives the Fire Chief, or his/her designated representative seventy-two (72) hours advance, written notice or, if it is impossible to give seventy-two (72) hours advanced, written notice, such other notice as is feasible. Time spent on authorized business under this provision shall be compensable at the rate of pay for each individual who participates for those days the employees was scheduled to work. Payment shall be made directly to the individual participants. Persons authorized to

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participate in a function or functions which qualify for compensation under this provision shall be chosen by the executive body of the Union Local.

No more than forty-eight (48) unused hours provided in accordance with this Article shall be carried over for use in the next calendar year.

Section 5.3 Request For Union Leave When Union leave is requested under the provisions of this Article, the representative requesting such leave shall specify in the request for leave the nature of use of leave, the location where he/she will be located, and the expected time to be used. Union time off is for a minimum of three (3) hours.

Section 5.4 Union Leave For Contract Matters Union time off shall not be required and not charged for designated members participating in contract negotiations, arbitration, fact finding, or disciplinary hearings, or any other similar meetings that the city required the unions attendance and that the Fire Chief or his designee approves. If on duty, the designated representatives will be given the needed time off to attend such meetings or hearings as paid time off. Time spent on authorized business under this provision shall be compensable at the rate of pay for each individual who participates for those hours the employees was scheduled to work. Payment shall be made directly to the individual participants.

ARTICLE 6 GRIEVANCE PROCEDURE

Section 6.1 Definitions, Limits On Procudure The term “grievance” shall mean an allegation by a bargaining unit employee, the Union, or the Employer that there has been a breach, misinterpretation, or improper application of this Agreement. For purposes of this article, the term “working days” is defined as Monday through Friday and excluding Holidays.

It is not intended that the grievance procedure be used to effect changes in the Articles of this Agreement. As this Agreement provides for final and binding arbitration of grievances, the parties to this Agreement shall be subject solely to the grievance procedures set forth below and the Newark Civil Service Commission shall have no jurisdiction to receive or determine any appeals relating to matters which are subject to this grievance procedure. For matters not subject to arbitration the parties retain common law, constitutional, and statutory rights.

The Union may file and process grievances on behalf of a group of employees if the Union is requested to do so by the employees. In the event a group grievance is filed the grievance must identify the employees of the group.

Section 6.2 Time To File Grievance, Committee All grievances must be processed at the proper step in the progression in order to be considered at any subsequent step, except that any grievance challenging an act or decision of the Fire Chief or person above the Fire Chief may, at the option of the grievant, be filed in the first instance at Step 3 of the grievance procedure, within the time period established by this section.

- Oral and written reprimands cannot be arbitrated.

In order for a grievance to be considered under the procedure, it must first be submitted to the Union for review to ensure that the grievant has completed the grievance form properly and identified the specific applicable agreement article(s), under the procedure, it then must be filed in writing at the

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appropriate step within ten (10) working days of the occurrence of the event giving rise to the grievance. The Union shall establish a grievance processing committee to review such grievance forms and advise employees how to properly file an effective grievance. Notwithstanding the foregoing, no grievant is required to obtain the Union's approval or permission before submitting a grievance.

Section 6.3 **Advancement of Grievances** Any employee or the Union may withdraw a grievance filed by the employee or the Union respectively, by submitting in writing a statement to that effect, or by allowing the time requirements at any step to lapse without further appeal.

Any grievance not answered by management within the stipulated time limits shall be considered automatically advanced to the next step of the grievance procedure. All time limits on grievances may be waived or extended upon mutual consent of the parties. Upon mutual written agreement the parties may waive steps of the grievance procedure. Upon mutual agreement, the parties may attempt to resolve the grievance through mediation.

Section 6.4 **Grievance Steps** The following steps shall be followed in the processing of a grievance and all grievances will be numbered and kept track of by date of occurrence.

Step 1: **Assistant Chief or Designee**

The grievant shall submit a written grievance to his/her Assistant Chief or designee within the time frame set forth in Section 6.2. The written grievance at this Step and at all Steps hereafter, shall contain the following information:

- 1) Employee's name,
- 2) Employee's classification,
- 3) Work location,
- 4) Employee's immediate supervisor,
- 5) Date grievance occurred,
- 6) Date grievance was submitted,
- 7) Location where grievance occurred (if applicable),
- 8) The article(s) and/or sections of the Agreement that has allegedly been violated,
- 9) A statement of the grievance and the facts upon which it is based,
- 10) The remedy or adjustments sought, and
- 11) Signature of the aggrieved employee or union representative.

The Assistant Chief or designee shall investigate the grievance and submit this recommendation for resolution of the grievance to the Fire Chief and to the filing party within ten (10) working days of its receipt. The written recommendation at this Step and Employer's response in all Steps hereafter shall contain the following information:

- 1) An affirmation or denial of the facts upon which the grievance was based;
- 2) The remedy or adjustment, if any, to be made; and
- 3) The signature of the appropriate Employer representative.

If the grievance is not appealed to the second (2nd) Step by the filing party or if the Assistant Chief's or designee's recommendation is not rejected by the Fire Chief within five (5) working days after receipt of the Assistant Chief's or designee's answer, the grievance shall be considered satisfactorily resolved.

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Step 2: Fire Chief

If the grievance is not resolved at Step 1 the grievant may, within ten (10) working days following receipt of the Step 1 answer or the Fire Chief's rejection of the Step 1 recommendation, whichever is later, file a written appeal with the Fire Chief or designee. The Fire Chief, or the Chief's designee, shall hold a grievance meeting with the grievant and an Executive Board member and/or an attorney within ten (10) working days following receipt of the written grievance unless otherwise agreed to by the parties. The Fire Chief or the Chief's designee shall investigate the facts and reply to the filing party in writing within ten (10) working days after a meeting.

If the grievance is not appealed to the Step 3 by the filing party within ten (10) working days after receipt of the Fire Chief's answer, it shall be considered to be satisfactorily resolved.

Step 3: Safety Director

If the grievance is not resolved at Step 2, the grievant may, within ten (10) working days of the Step 2 answer, file a written appeal with the Office of the Safety Director. The Safety Director or the Director's designee shall investigate and hold a grievance meeting with the aggrieved employee, and if requested by the grievant, an Executive Board member and/or an attorney within ten (10) working days of the Director's receipt of the appeal, unless otherwise agreed by the parties. The Director or his designee shall reply to the grievance in writing within ten (10) working days after the completion of the meeting. The Employer may have up to two (2) representatives, one of which shall be the Director of Human Resources or his/her designee.

Within ten (10) days of the receipt of the notice of discipline imposed by the Safety Director pursuant to section 37.4, a bargaining unit member may grieve directly to Step 3. If the grievance is not resolved at Step 3, the union may submit the grievance to the Human Resources Director for arbitration in accordance with Section 6.5, below. Alternatively the union within fourteen (14) days of the discipline imposed by the Safety Director may bypass Step 3 and file a grievance with the Human Resources Director requesting arbitration in accordance with Section 6.5, below. The parties may agree to mediation before the arbitration process. Upon completion of the mediation process without resolution or upon the request of either party, the grievance may be taken to arbitration in accordance with Section 6.5, below.

Section 6.5 Arbitration

A grievance that is not settled as provided above may be submitted to arbitration provided that written notice of such intention is given by the Union to the Human Resources Office of the City within fourteen (14) working days of the filing of the Step 3 answer or upon completion of the mediation process.

The decision of the arbitration shall be final and binding on the parties.

Within ten (10) working days the Human Resources office shall request a list of seven (7) arbitrators from the Federal Mediation and Conciliation Service (FMCS). The cost of the list will be split 50/50 between the city and the union. Upon receipt of the list from FMCS the city shall provide the union a copy of the list. The city and the union shall meet within ten (10) working days to select an arbitrator from the list. The Arbitrator shall be chosen mutually by the parties or from the panel of seven (7) disinterested nominees to be selected by the Federal Mediation and Conciliation Service. A flip of a coin will determine who strikes a name from the list first. The party chosen shall strike one name from the list

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of names, and then the other party shall strike a name. Such alternate striking shall continue until only one names remains. The name remaining after the others have been so removed shall be the Arbitrator.

The Arbitrator shall be limited to the settlement of the specific claims arising from the grievance. In the event of a monetary award, the arbitrator shall limit any retroactive pay to the date of the occurrence of the event giving rise to the grievance. The expenses of the arbitrator shall be borne by the losing party. If there is a dispute as to which is the losing party, the arbitrator will be requested to designate a losing party. Expenses, if any, of the witnesses shall be borne by the party calling the witness. The fees of a court reporter shall be paid by the party asking for one; such fees shall be split equally if both parties desire a court reporter's recording, or request a copy of any transcript.

ARTICLE 7 **WORK RULES**

Section 7.1 **City Responsibility** The Union recognizes that the Employer or its designee(s), in order to carry out its statutory mandates and goals, has the right to promulgate reasonable work rules, policies, procedures, and directives, consistent with statutory authority, to regulate the personal conduct of employees and the conduct of the Employer's services and programs. It is the City's intention to allow Union participation in the development of rules as well as continuing discussion of current work rules.

Section 7.2 **Application Of Rules** Work rules, policies, and directives, should be interpreted and applied uniformly to all employees under similar circumstances. Work rules shall not be adopted that are in violation of the express terms of this Agreement.

Section 7.3 **Distribution and Content of Rules** It is agreed that, where the Employer has determined that written work rules are necessary, and to the extent any work rules have been or will become reduced to writing, the Employer will make them available to the employees by maintaining at least one read only link and/or electronic copy in each station and providing a read only line and/or electronic copy of the work rules to each bargaining unit member. Link and/or electronic copies of proposed new work rules, or proposed amendments to existing written work rules, will be furnished to representatives of the of the Union prior to becoming effective. All copies either printed or electronic or current, new or revised rules will contain the following information: subject, author or employee written by, date it was approved by Fire Chief, date IAFF Local 109 was given notice and date of implementation.

Section 7.4 **Notice of Changes** The parties recognize it is the philosophy of the employer to inform Employees in advance of any change in the work rules. Notice shall be given at least seven (7) days in advance of the effective date of new or amended rules. This notice shall be through general distribution of a memorandum with line and/or electronic copies provided to the Union prior to the effective date of the new work rule.

Section 7.5 **Employee Responsibilites** This Section shall not be interpreted in any manner to relieve an employee of his/her responsibilities to follow the established rules and procedures of good conduct whether or not such rules and procedures have been reduced to writing.

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ARTICLE 8 **SHIFT EXCHANGE**

Section 8.1 **Shift Exchange and Approval** Employees shall have the right to exchange shifts when the change does not interfere with the operation of the Fire Department and is mutually agreed to by the Chief of the Department or the Chief's designee.

Section 8.2 **Electronic Files for Shift Exchange** The Department shall maintain electronic records for purposes of exchanging shifts. The electronic records shall contain the employee's name, date of trades, with whom the trade was made, date trade was returned, and the number of hours traded.

Section 8.3 **Early Relief/Holdover Trades** Early relief trades or hold over between employee(s) of four (4) hours or less shall not require a pay back, but shall require a trade card, and must be approved by the Assistant Chief or the Acting Assistant Chief on duty. Should an Employee need an early relief or hold over for less than one (1) hour, the employee may do so with verbal permission of the Assistant Chief on duty, and this will not require a trade card. Any employee who is holding over for another employee, and has the permission to do so by the Assistant Chief or the Acting Assistant Chief on duty, shall not be subject to call-in.

Section 8.4 **Rules for Trades** The following rules shall prevail for trading of time:

- 1) All trades shall be returned prior to any change in classification.
- 2) All trades shall be of an equal number of hours.
- 3) There shall be no trades involving more than two (2) employees
- 4) Firefighters are not permitted to trade with probationary firefighters who have less than six (6) months service on the Department.
- 5) Officers may only trade with another officer of the same rank, or next rank above or below.
Except that Lieutenants may trade with the top ten (10) candidates on the Lieutenants promotional list. The candidate working in the trade position will work as an acting Lieutenant.
- 6) Paramedics may only trade with certified paramedics.
- 7) Probationary firefighters with at least six (6) months service on the department may trade with other probationary firefighters who also have at least six (6) months service on the Department.

Section 8.5 **Failure to Report** Any employee failing to present himself/herself for work as required by a shift exchange, shall be subject to disciplinary action and/or revocation of his/her right to exchange shifts.

ARTICLE 9 **STAFFING OF COMPANIES**

The Employer pledges to make a concerted effort to maintain sufficient staffing of each company, within the financial capability of the City, to provide an adequate number of personnel to effectively protect the citizens of Newark and firefighting personnel.

The Union pledges to make a concerted effort to cooperate with the Employer in reducing the amount of absences in the Fire Department.

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This provision shall not be construed as prohibiting the Employer from laying off employees due to lack of work or lack of funds, or from temporarily revising the manning levels due to excessive absenteeism, or financial limitations. Statutory procedures regulating layoffs shall be followed.

ARTICLE 10 LIGHT DUTY

Members unable to perform their regular job may be assigned light duty work by the Chief, provided light duty work is available.

ARTICLE 11 CREDIT UNION

Section 11.1 Credit Union Deductions The Employer agrees to permit payroll deduction from those employees wishing to participate in said credit union. It shall be the responsibility of the City Auditor to establish such rules and regulations as he deems necessary to implement and accomplish the purpose of this Article.

Section 11.2 Auditor Requirements Employees shall be required to comply with such rules and regulations as the Auditor may establish in order to facilitate the operation of the credit union.

Section 11.3 Auditor Charge In accordance with the Ohio Law, the Auditor may establish a charge to be paid by the credit union to defray the actual cost of making such deductions.

ARTICLE 12 LABOR-MANAGEMENT COMMITTEE

Section 12.1 Labor Management Committee A Labor-Management Committee is hereby established. The Committee shall consist of four (4) Union representatives and four (4) employer representatives, which may include bargaining unit members. The Committee shall meet at least once every three (3) months, unless both parties agree a meeting is not needed, to discuss all matters of mutual concern and the Committee shall have the authority to make recommendations to the Union and the City. Parties shall submit agendas for meetings seven (7) calendar days in advance of the scheduled Labor-Management Committee meetings.

ARTICLE 13 HOLIDAYS

Section 13.1 Holidays The following holidays are those which shall be recognized and observed by staff personnel in the Fire Department:

- 1) New Year's Day
- 2) Martin Luther King Day
- 3) President's Day
- 4) Memorial Day
- 5) Independence Day
- 6) Labor Day
- 7) Columbus Day
- 8) Veteran's Day
- 9) Election Day (12:00 noon to 5:00 p.m.)
- 10) Thanksgiving Day
- 11) Christmas Eve
- 12) Christmas Day

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- 13) Employee's Birthday
- 14) Floating Holiday (1)

Section 13.2 Staff Holiday Hours Members assigned to staff duty shall receive those holidays listed in Section 13.1 off with pay, with the time off deducted from the member's bank of holiday hours accumulated pursuant to Section 13.3, below. Those members also shall be eligible to work and at their option may work the holiday listed in Section 13.1. Members working those holidays shall receive their normal pay and no hours shall be deducted from the member's bank of holiday hours, for all hours worked on the holiday.

Section 13.3 Holiday Hours, Use of Holiday Hours, Cash Out Effective January 1 of each year all members shall receive two hundred (200) holiday hours providing the annual budget has been balanced for that year, otherwise each employee will receive the ratio proportion directly related to budget that the City is using as the interim budget. (Example: if the city is operating on an interim budget say of 25% then each employee may receive that same amount of eligible hours for that year), until the annual budget has been approved, then the employee will receive the balance of the two hundred (200) holiday hours.

Holiday hours may be used as time off during the year, cashed in during the year upon thirty (30) days written notice to the City, or carried over to the following year. Holiday hours used as time off may be taken in hourly increments, with a minimum use of three (3) hours. The maximum number of hours that can be cashed in yearly by a member is one hundred fifty two (152) hours. The maximum number of hours that can be carried over to the following year is twenty-four (24). Any holiday hours not carried over to the following year or not used or cashed in during the year shall be cashed in and paid to the member on the last paycheck of the year.

Section 13.4 Prorated Holidays An employee that is hired during the year will receive holiday hours on a prorated basis. An employee separating from the city prior to December shall also have their holiday hours pro-rated.

ARTICLE 14 VACATIONS

Section 14.1 Vacation Credits, Increments After one (1) year of employment with the City, each bargaining unit employee shall earn one hundred and twenty (120) hours of vacation leave. One (1) year of service shall be computed on the basis of the completion of twenty-six (26) biweekly pay periods.

Any bargaining unit employee with seven (7) years of service shall have earned and is entitled to one hundred and ninety-two (192) hours of vacation leave with full pay in the eighth year. Any such full-time employee with fourteen (14) or more years of service with the City shall have earned and is entitled to two hundred and sixty four (264) hours of vacation leave with full pay commencing with the employee's anniversary date in the fifteenth (15) year. Any such full-time City employee with twenty-one (21) or more years of service with the City shall have earned and is entitled to 312 hours of vacation leave with full pay commencing with the employee's anniversary date in the twenty-second (22) year.

Section 14.2 Biweekly Accrual Rates Vacation leave shall accrue to any such employee at the rate of 4.62 hours each biweekly pay period for those entitled to one-hundred and twenty (120) hours of vacation leave per year; 7.38 hours each biweekly pay period for those entitled to one hundred and ninety-two (192) hours of vacation leave per year; 10.154 hours each biweekly pay period for those

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entitled to two hundred and sixty-four (264) hours of vacation leave per year; 12.0 hours each biweekly pay period for those entitled to three-hundred and twelve (312) hours of vacation leave per year.

Section 14.3 **Twelve Month Minumum Service** Accrued vacation leave may be taken after completion of twelve (12) months of service and not before.

Section 14.4 **Vacation Leave Carryover** An employee may accumulate and carry over vacation leave to the following year. However, no vacation leave shall be carried over under any circumstances for more than four (4) years.

Section 14.5 **Payout of Leave** Upon termination or separation from employment, an employee is entitled to compensation at his/her current rate of pay for any accrued and unused vacation leave in 14.4 above, up to the maximum of vacation leave that could be accrued in the employee's last three years of employment, provided that such employee is not dismissed for cause.

Section 14.6 **Payout at Death** In the case of the death of a City employee, the accrued and unused vacation leave shall be paid forthwith to the employee's spouse or other written designee. If it there is no surviving spouse, or other written designee, it shall be paid to the estate of the employee.

Section 14.7 **Scheduling of Vacation Leave** For purpose of manpower scheduling, the vacation list shall be passed around for sign up by seniority on each platoon commencing no later than December 1 for the up-coming year.

Vacation sign-up commencing on December 1 for the coming year shall be in accordance with SOP 100.07 in effect as of July 30, 2015 unless SOP 100.07 is changed by mutual agreement of the union and the city.

Section 14.8 **Schedules Subject Approval** Vacation schedules are subject to the approval of the Fire Chief or the Chief's designee. Due consideration for individual employee convenience and seniority will be given, but the needs of the City in scheduling workloads will be the controlling factor. Notwithstanding at least two (2) employees but no more than three (3) employees shall be permitted off on vacation or holiday hours or compensatory time. Three (3) employees will only be allowed off on vacation, holiday hours, or compensatory time during the week of leap year where there are no Kelly days.

Section 14.9 **Use of Leave, Kelly Days** A minimum of three (3) hours of vacation or holiday hours must be used. At least two (2) employees but no more than three (3) employees shall be permitted off on vacation or holiday hours or compensatory time. Three (3) employees will only be allowed off on vacation, holiday hours, or compensatory time during the week of leap year where there are no Kelly days.

ARTICLE 15 **SICK LEAVE**

Section 15.1 **Crediting of Sick Leave** Sick leave credit shall be earned by each full-time employee at the rate of 7.38 hours of sick leave each bi-weekly pay period which is 192 hours of sick leave per year. Unused sick leave shall accumulate without limit.

Section 15.2 **Retention of Sick Leave** The previously accumulated sick leave of an employee who has been separated from the public service shall be placed to his/her credit upon his/her reemployment in the public service provided that such reemployment takes place within ten (10) years of

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the date on which the employee was last terminated from public service and he/she did not receive payment from the previous public employer.

Section 15.3 Expiration of Sick Leave If illness or disability continues beyond the time covered by earned sick leave, the employee may be granted an unpaid medical leave of absence in accordance with the appropriate rules or policies of the Employer.

Section 15.4 Charging of Sick Leave Sick leave shall be charged in minimum units of one-quarter (1/4) hour. An employee shall be charged for sick leave only for days upon which he/she would otherwise have been scheduled to work. Sick leave payment shall not exceed the normal scheduled workday or workweek earnings.

Section 15.5 Uses of Sick Leave

- A. Sick leave shall be granted to an employee upon approval of the Chief or his designee for the following reasons:
- 1) Illness or injury of the employee or a member of his/her immediate family requiring the employee's care.
 - 2) Death of a relative not covered by bereavement leave under Article 17, Section 17.1 of this agreement.
 - 3) Medical, dental or optical examination or treatment of employees or a member of his/her immediate family, which requires the employee, and which cannot be scheduled during non-working hours.
 - 4) If a member of the immediate family is afflicted with a contagious disease or requires the care and attendance of the employee or when, through exposure to a contagious disease, the presence of the employee at his/her job would jeopardize the health of others.
 - 5) Pregnancy and/or childbirth and other conditions related thereto.
- B. "Immediate family" means an employee's spouse, parents, parents -in-law, children, step-children, or other relatives who qualify as dependents under the internal revenue code and who are living in the same household.

Section 15.6 Evidence Required for Sick Leave Usage The Employer may require an employee to furnish a standard, written, signed affidavit explaining the nature of the illness to justify the use of sick leave or in accordance with the other Sections of this Article, may require a certificate stating the nature of the illness from a licensed physician to justify the use of sick leave.

After the employee is off three (3) consecutive work shifts, an employee must provide the Employer with a physician's certificate explaining the nature of the illness or injury and any related restrictions which justifies the use of sick leave. The certificate must be presented upon the employee's return to work or sick leave shall not be allowed.

Falsification of either the written, signed affidavit or a physician's certificate shall be grounds for disciplinary action including dismissal.

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Section 15.7 Notification by Employee When an employee is unable to report to work due to a reason listed under section 15.5 of this article, he/she shall notify his/her department head or other designated person, as soon as possible prior to the time he/she is scheduled to report to work on each day of absence. Failure to do so, inform the department head or his/her designated representative on each occasion or at agreed intervals, in the case of extended illness, shall result in a loss of that day's pay. Continued abuse of this Section will give cause for dismissal from service with the Employer.

Section 15.8 Abuse of Sick Leave Patterned or excessive use of unexcused sick leave will be tracked by Human Resources and reported to the Fire Chief and may result in discipline. Employees intentionally failing to comply with sick leave rules and regulations shall not be paid. Application for sick leave with intent to defraud will result in dismissal and refund of salary or wage paid.

Section 15.9 Physician Statement If medical attention is required, the employee shall be required to furnish a statement from a licensed physician notifying the Chief or his/her designee that the employee was unable to perform his/her duties. Where sick leave is requested to care for an member of the immediate family, the Chief or his/her designee may require a physician's certification to the effect that the presence of the employee is necessary to care for the ill person.

Section 15.10 Physician Examination Upon recommendation from the Fire Chief and Safety Director, the Director of Human Resources may require an employee to take an examination, conducted by a mutually agreed to, licensed physician, to determine the employee's physical or mental capability to perform the duties of the employee's position. If found not qualified, the employee may be placed on sick leave or disability leave. The cost of such examination shall be paid by the Employer.

Section 15.11 Administration of Sick Leave The provisions of this Article shall be uniformly administered throughout the Division of Fire, and it shall be the responsibility of the Office of the Director of Human Resources to implement this Article to accomplish such purpose.

Section 15.12 Personal Days. Members of the bargaining unit shall be entitled to use two (2) days of accrued leave per year as personal days. The employee shall identify which days are personal days. Personal days shall be charged against the member's accrued time off of his/her choice, irrespective of the fact that personal days do not meet the criteria otherwise set out for leave time off. Personal days may not be used on the following holidays: 1., 2., 3., 4., 5., 6., or 7., as listed in Article 13.

Section 15.13 Conversion Employees who have accumulated four hundred eighty (480) hours of sick leave or more may elect to convert forty-eight (48) hours of sick leave into twenty-four (24) hours of vacation. The employee may elect to convert sick leave to vacation at any time during the year. Once sick time has been converted to vacation, it shall not be converted back to sick time.

Each member who has accrued more than 480 hours of sick time may, in October of each year, convert sick leave to cash at the rate of three hours pay for each four hours of sick leave being converted, according to the following schedule:

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| <u>Accrual of sick leave used during previous 12 months</u> | <u>Number of hours which may be converted at 75%</u> |
|---|--|
| No Usage | 154 hours |
| 1 hour to 47 hours | 128 hours |
| 48 hours to 119 hours | 102 hours |
| 120 plus hours | 0 hours |

Note: Personal days, catastrophic donations, and sick hours converted to vacation do not count in accrual of sick leave used for conversion.

Any amounts cashed in shall be added to the employee's normal paycheck. This amount shall be paid the first pay period of November.

ARTICLE 16 CONVERSION OF UNUSED SICK LEAVE

Section 16.1 Conversion at Retirement Those employees covered by the terms of this Agreement who retire from the employ of the City, shall at the time of retirement from the City be entitled to convert their accrued, but unused sick leave to a cash payment on the following basis:

- Employees may receive, after completion of ten (10) years of continuous service with the City, a cash payment in the amount of one (1) hour's pay for each two (2) hours of accrued, but unused sick leave at their time of retirement. The maximum payment under this provision shall not exceed twelve thousand dollars (\$12,000) for any year covered by this agreement.
- The employees who elect to retire after twenty-five (25) years of credit in the retirement system, or who qualify for a disability retirement, may convert unused sick leave to a cash payment of one (1) hour's pay for every two (2) hours of accrued, but unused sick leave. The maximum payment under the provision shall not exceed seventeen thousand five hundred dollars (\$17,500) for any year covered by this agreement.

Section 16.2 Payment under the terms of this Article shall be computed on the employee's actual base hourly rate of pay per Article 39, at the time of retirement from the City, upon confirmation from the State's Police and Fireman's Disability and Pension fund, that the employee is eligible to receive retirement benefits.

Section 16.3 Elimination of Sick Leave Such payment for the conversion of sick leave will only be made once to an employee. Payment for sick leave at retirement shall be considered to eliminate all sick leave credit accrued by the employee at that time.

ARTICLE 17 BEREAVEMENT LEAVE

Section 17.1 Bereavement Leave, Family Defined The Chief will grant five (5) consecutive calendar days for employees, which period shall include the day of the funeral/memorial service of paid leave for the death of an employee's spouse, parents, parents-in-law, children, step-children, grandparents, brothers, sisters, or any other relatives who qualify as dependents under the internal revenue code and who are living in the same household and/or other person who stands in the place of a parent, provided the Employee notifies the Officer in charge on duty in advance of the leave and identifies the relationship of the deceased.

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The Chief will grant three (3) consecutive calendar days off paid leave for employees for the death of an employee's grandparents-in-law, spouse's siblings, and sibling spouses.

The Chief will grant four (4) hours of paid leave for attending the funeral of the employee's aunt or uncle.

Section 17.2 Additional Leave Additional leave in excess of the bereavement time off afforded in 17.1 or death of a relative other than a member of the immediate family shall be approved in advance by the Chief or his/her designee, and shall be charged to the employee's accrued sick leave, comp time, vacation, or if no such leave is available, counted as leave without pay.

ARTICLE 18 INJURY LEAVE

Section 18.1 On Job Injuries, Length of Injury Leave Any employee who is injured while on duty or had contracted a disease while on duty will be entitled to receive his/her normal pay during the first 1248 hours being off due to the injury or disease. To be eligible the employee does not have to be off the entire 1248 hours, and an employee who returns to work from injury leave and is subsequently unable to work as a result of the injury or disease is entitled to return to injury leave if the 1248 hours has not been exhausted. Leave under this Article shall not extend more than three (3) years from the date of the injury or contracting of the disease.

The City decision to grant or deny injury leave will be made within ten (10) calendar days from the date the written request for injury leave is submitted by the employee, unless the parties do not have sufficient information to render a decision or the parties agree in writing to an extension.

If injury leave is granted then the employee will be placed on injury leave from the date of the injury for the time specified by the attending physician in which the employee is unable to perform his/her work duties. If an employee is not granted injury leave or if sufficient information does not exist to warrant a determination, the employee may utilize approved sick leave, vacation leave, or compensatory time. If injury leave is initially denied and later approved and an employee has utilized sick or other leaves the employee shall have the leave balances restored. If an employee denied injury leave has applied for and been granted/approved for workers' compensation temporary total disability benefits based upon the injury then the employee shall be placed on injury leave and have his/her other leave balances re-credited.

Section 18.2 Proof for Injury Leave To be placed on injury leave and receive the benefits set forth in this Article, an employee has the burden of proving that any disease or injury suffered by him/her was incurred in the course of or arising out of his/her employment with the City. Employees must report any injury to his/her immediate supervisor immediately upon the occurrence of the injury or, if physically unable to do so, as soon as the employee is capable. The employee must file a claim with the Bureau of Workers' Compensation (BWC) and said claim must be certified by the BWC. If injury leave is initially granted by the City and at a later time the BWC denies certification of the claim, the injury leave will then be disallowed and all injury leave wages paid during the period of injury leave will be deducted from the employee's sick leave, vacation leave or compensatory leave balances.

Section 18.3 Denial of Injury Leave Injury leave shall be denied the employee where he/she has failed to prove his/her disease or injury is occupationally connected or was incurred in the course and

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arising out of his/her employment with the City, has failed to report such injury to his/her immediate supervisor or his/her claim has been denied by the BWC as not being work related.

Section 18.4 Service Credit, Leave Accrual Stayed An employee shall be entitled to credit for service time accumulated during injury leave in determining eligibility for salary step advancement and other benefits where tenure is a factor.

Section 18.5 Restricted / Light Duty Any employee otherwise qualified for injury leave based on the physician's determination to be capable of performing modified or restricted duties at any time after an injury may be assigned to perform such duties in lieu of being placed on injury leave. An employee who objects to such assignment shall have the right to an examination by a physician appointed and paid for by the employer. If the employee objects to the physician selected by the City then the City and the employee or the City's physician and the employee's physician shall mutually select a physician who shall conduct the examination. The physician's determination of the employee's capacity to perform such modified or restricted duties shall be final as to the employee's eligibility for injury leave. In the event of an objection, the employee shall not be required to perform such modified or restricted duties until certified as able of performing such by a physician.

Section 18.6 After 1248 Hours In those circumstances where an employee is absent for more than 1248 hours per Section 18.1, the employee may receive payment from the Bureau of Workers' Compensation in accordance with the applicable rules and regulations. Under this provision, the employee will continue to accrue sick leave and vacation time for a maximum period of three (3) years at a rate of 2/3 the regular rate when the employee elects to receive Workers' Compensation benefits.

It is understood that the purpose of this contractual provision is to enable firefighters to continue to accrue sick leave, vacation time, and the like as well as to enable firefighters to retain their union seniority after the expiration of the 1248 hours provided for in this collective bargaining agreement during periods of absence occasioned by a work-related injury.

ARTICLE 19 TARDINESS

Section 19.1 Tardiness For unexcused tardiness, an employee reporting late for scheduled duty shall not be paid for the period of time they are tardy in fifteen (15) minute increments up to the first four (4) hours.

Section 19.2 Times Charged

- A. For unexcused tardiness, an employee reporting late after the first four (4) hours shall lose twelve (12) hours of pay and shall report for duty the second half of their shift, 20:00 – 08:00 or lose the whole twenty-four (24) hours of pay.
- B. The second occurrence (within the effective dates of this collective bargaining agreement) of reporting late after four (4) hours, the employee shall not be paid for twenty-four (24) hours.

Section 19.3 Discipline Implementation of the above penalties will not preclude the employer from taking other action including discipline upon an employee for unexcused tardiness.

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ARTICLE 20

HOURS

Section 20.1 Scheduling and Kelly Days The normal workweek for the Division of Fire shall consist of twenty-four (24) consecutive hours on duty followed by forty-eight (48) consecutive hours off duty, with a Kelly day system, on a twenty-one (21) day cycle. The Department shall be divided into three (3) platoons. Kelly days will be selected by seniority and may be traded. For purpose of Kelly Day selection, no more than two (2) officers may choose the same Kelly Day. Staff personnel shall work a normal workweek of forty (40) hours with the hours to be determined by the Chief.

Section 20.2 Shifts The beginning and ending times of each shift shall be 0800 a.m. to 0800 a.m. and may be changed for the operational benefit of the Department. No shift change shall occur until after the City has met with the Union to discuss the proposed change and the employees have received advance notification of the new schedule.

Section 20.3 Modifications of Schedules Schedules for light duty firefighters and firefighters going to EMT, EMT-A, or first-time medic school only may be varied to accommodate the needs of the affected employee or the needs to the Department.

Section 20.4 Leap Year On February 29 of each leap year, platoon members shall each work an eight (8) hour shift and shall receive eight (8) hours pay for such work.

Section 20.5 Inspections There shall be no training, inspections, pre-plans or hydrant maintenance on Sundays (except in extraordinary circumstances), holidays, and after 10:00 p.m. on weekdays and Saturdays, except for those members who need to maintain hours for Medic Recertification.

ARTICLE 21

OVERTIME PAY

Section 21.1 Overtime, Call In Employees shall receive overtime pay, or compensatory leave time in lieu of overtime pay for all assigned work performed which exceeds the normal work day or week, within any pay period. For purposes of this Article, "assigned work performed" shall include all hours in paid status. Overtime compensation shall be computed at one and one-half (1-1/2) times the employee's regular hourly rate, or one and one-half (1-1/2) hours of compensatory leave time, for each hour of overtime worked. Personnel called in for overtime not contiguous to their regularly assigned shift shall be paid a minimum of three (3) hours at one and one-half times their base rate of pay, or if the employee is called in to attend a meeting, the employee shall be paid a minimum of two (2) hours at one and one-half times the employee's base rate of pay. Light duty firefighters are not eligible for overtime.

Section 21.2 Compensatory Time Employees eligible for overtime pay must designate to the Chief or his/her designated representative, during the pay period the overtime is worked, if they desire to receive compensatory time in lieu of overtime pay. Compensatory time will be earned, accumulated, and used in accordance with this Article, and Article 22 of this Agreement.

Section 21.3 Overtime Lists Personnel called in for overtime shall be called in for overtime according to overtime lists maintained by the Fire Chief with the approval of the bargaining unit as to the order of employees on the list by seniority. There shall be two (2) lists, one (1) for officers only and one (1) for firefighters that includes non-officer firefighters and non-officer firefighters/paramedics. The call-in lists for overtime shall be made on the basis of seniority, and employees shall be called in for overtime based upon their placement on the list by calling the first member on the list who meets the minimum requirements needed to fill the position. Officers shall not be called for firefighter or

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firefighter/paramedic recalls except in the case that the firefighter list was exhausted. Firefighters shall not be called to work for officers' recalls except in the case that the officer list was exhausted. Call-in for overtime shall be in accordance with the recall policy then in effect. Special assignments made by the Chief shall not be subject to the provisions of this section.

Recall policies shall be designed to attempt to create equal opportunity for overtime for employees, to fulfill the needs of the Department for the efficient delivery of services, and to ensure that those individuals with special certification or qualifications perform those tasks for which they are specifically certified or qualified i.e., officers, medics and hazmat personnel.

These provisions are not meant to limit the authority of the City to establish recall policies for the efficient use of overtime and manpower and the Chief retains the discretion to make the changes in recall policies and procedures to the extent the policies, procedures and changes do not conflict with the provisions of this Article. Any changes shall be presented to and discussed with the Union at least two weeks prior to implementation.

Section 21.4 **Increments's for Overtime** Personnel working past their regular shift hours shall be paid in quarter hour increments, rounded in employee's favor.

| | | |
|----------|-------------------------|------------------------|
| Example: | 1 to 15 minutes worked | = 1 quarter hour paid |
| | 16 to 30 minutes worked | = 2 quarter hours paid |
| | 31 to 45 minutes worked | = 3 quarter hours paid |

Section 21.5 **Maximum Hours Worked** When an overtime situation occurs for a full twenty-four (24) hour shift, members called in to work the overtime in a non-emergency situation shall be offered a shift in twelve (12) hour blocks and may work a maximum of twenty four (24) hours. No member may work more than forty eight (48) hours consecutively without a minimum of twelve (12) hours off duty.

ARTICLE 22 **COMPENSATORY TIME**

Section 22.1 **Requests for Comp Time** Bargaining unit employees having compensatory hours credited may use it as time off from regular duty upon approval of the Fire Chief, or the Chief's designated representative, provided an adequate number of personnel are on duty to cover the shift.

Section 22.2 **Comp Time Use** Employees may select the dates on which they wish to schedule compensatory time off, and shall be required to report for duty, and make sure an adequate number of personnel are on duty before being released on compensatory time, by the Chief, or the Chief's designated representative. Employees shall be required to file a written form requesting the amount of compensatory time to be used. Compensatory time shall be charged hour for hour with a one-hour minimum. Employees shall be held accountable for hours used and required to report in by the Fire Division's direct phone lines. Compensatory time shall not be used for vacation use, except as provided herein.

Section 22.3 **Scheduling Comp Time** Bargaining unit employees may be permitted to schedule compensatory time off in the same manner as vacations are scheduled provided such compensatory time off does not interfere with any regular vacation scheduling for other employees, and is approved by the Fire Chief. Regular vacation scheduling is that which is scheduled by employees the prior December. Compensatory time may be scheduled in this manner, only when an adequate number of employees are scheduled to cover the shifts.

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Section 22.4 **Comp Time Bank, Annual Conversion** Employees receiving compensatory leave time in lieu of overtime pay, for assigned work performed which exceeds the normal work week within any pay period shall receive compensatory leave time at the rate of one and one-half (1-1/2) hours of compensatory leave time for each hour of overtime worked. For purposes of this Article, "assigned work performed" shall include all hours in paid status. Employees shall not be permitted to accumulate over four hundred eighty (480) hours of compensatory leave time. Employees shall be permitted to carry their accrued, unused compensatory time into the following calendar year, subject to the provisions of this Section, and employees may elect annually to convert up to 96 hours of compensatory time to a cash payment.

ARTICLE 23 **LEAVE OF ABSENCE**

Section 23.1 **Leaves of Absence** Leave without pay for employees of the Fire Division may be granted by the Appointing Authority upon written request from the employee. The request shall be submitted to the Appointing Authority. Such leave without pay will not in any case exceed one hundred eighty (180) days. During this period, the employee will not accumulate vacation or sick leave, nor will the employee accrue seniority.

Unpaid disability leave of absence may be granted by the Director of Human Resources upon written application by the employee. This unpaid disability leave shall not exceed one hundred eighty (180) days except for employees receiving temporary total disability compensation.

Upon return from an unpaid disability or unpaid personal leave, the employee shall be placed in the same position or classification held prior to the leave, or if that position or classification has been abolished, to a similar position.

During the unpaid leave, the employee's share of the insurance premiums will need to be paid by the employee to the Office of Human Resources by the first of each month.

Section 23.2 **Family and Medical Leave** An employee, subject to the eligibility requirements of the Family and Medical Leave Act, shall be granted or placed on up to twelve (12) weeks of leave of absence per year for one or more of the following reasons:

- 1) The birth of a son or daughter to the employee and in order to take care of such son or daughter.
- 2) The placement of a son or daughter with the employee for adoption or foster care.
- 3) To care for a spouse, son, daughter, or parent of the employee, if such spouse, son, daughter, or parent has a serious health condition.
- 4) Because of a serious health condition that makes the employee unable to perform the functions of his/her position.

The City shall comply with all Federal Laws in regard to the Family and Medical Leave Act (FMLA). Employees may be required, in accordance with the FMLA, to substitute all or part of any accrued paid leave time such as sick leave or vacation for all or part of the twelve (12) weeks.

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The provisions of this Article shall be uniformly administered throughout the City and it shall be the responsibility of the Office of the Director of Human Resources to implement this Article to accomplish such purpose.

ARTICLE 24 **WORKING OUT OF CLASSIFICATION**

Section 24.1 Working Out of Classification An employee, covered by this Agreement, who is temporarily assigned and required to accept the responsibilities, and carries out the duties of a position or rank above that which the employee normally holds, shall be paid at the rate for that position, for all hours assigned to the higher ranking position, during that work day.

ARTICLE 25 **QUARTERMASTER SYSTEM**

The City shall create a quartermaster fund consisting of moneys equal to \$950 for the Newark Fire Division. This aggregate amount of money shall be used by the firefighters of the Newark Fire Division to purchase uniforms and equipment approved and used by members of the Division. All allotted monies must be spent between January 1 and November 1 each year. After November 1, any money that a bargaining unit member has remaining of their allotment shall be paid to that member in the form of a payroll check issued in the first pay period in December. The amount of the check shall be \$950 minus the cost of any items purchased through the quartermaster system. This money shall only be paid once the bargaining unit member meets the required uniform items criteria as indicated in Section 25.8b of this appendix.

Any firefighter that is hired on or before July 1 of the previous year shall receive the full yearly allotment placed in the account for the current year. Any firefighter that is hired after July 1 of the previous year shall have an amount of half of the yearly allotment placed in the account for the current year and the full amount for each year after.

Any employee, whose employment with the City is terminated for any reason, shall not be required to repay any of the monies the employee received under the reimbursement procedure of the quartermaster system. The one exception to this would be an employee found guilty of criminal misconduct directly pursuant to the application of this Article.

Any employee, whose employment with the City is terminated for any reason prior to November 1; their allotment payout shall be pro-rated, determined by the number of months they were employed in that allotment year. Example: if an employee terminates employment on January 31 they are due one twelfth (1/12) of their annual allotment in their final payout.

The City shall supply no less than one-half (1/2) of the funds referred to above by January 1 and will add the balance of the funds upon approval of the full budget each year. The Auditor/Treasurer shall supply to the quartermaster, through the Fire Chief, a monthly report indicating the amount remaining in the fund. This report shall commence January 1.

The position of Quartermaster is created within the Division of Fire. This sworn employee of the rank of Captain or above shall be responsible, in addition to any regularly assigned duties, for the administration of this program. The Quartermaster shall be appointed by the Fire Chief.

In January all members will receive a uniform inspection by the Quartermaster, specifically recording the required uniform items needed. The Quartermaster will also look for serviceability of the required items.

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The required items that are not accounted for or serviceable will be ordered through the Quartermaster before any other optional items can be purchased. Fire Division policy will be created to provide for the proper and equitable distribution of uniforms and equipment.

Items to be supplied by the Division of Fire in accordance with Article 25

- NFPA approved turnout gear including: helmet, gloves, coat, pants, suspenders, boots, heat/flame resistant protection hood
- SCBA mask
- First two (2) button up shirts (Class B)
- First two (2) pairs of pants (Class B)
- First jacket
- Badge
- Rescue rope bag
- Portable radios for officers
- Any item that becomes a required part of an employee's turnout gear shall be purchased by the City and not come out of quartermaster allotments.
- The Division of Fire will provide all the necessary equipment for apparatus and specialty teams as they currently do, and will not require this equipment to come out of individual's quartermaster allotment.

Section 25.8b Quartermaster Items – Authorized List

General uniform requirements: subject to inspection considered Class B uniform per SOP 102.8.

- Two (2) button up shirts
- Two (2) pairs of pants
- One (1) pair of boots
- Two (2) t-shirts
- One (1) belt
- One (1) jacket
- One (1) badge

Additional Uniform Items, optional*:

*These items can be requested once the Quartermaster is satisfied that each member has the required items. It will also be the discretion of the Quartermaster and approved by the Fire Chief to order these items as the individual employees budgeted account permits.

These items must be approved by the Quartermaster that they meet the Division's standards for use on duty.

Personal Clothing:

- Additional uniform(s)
- Specialty uniform(s) including plain clothes for members that are not required to be in uniform.
- Hat/cap with division logo
- Toboggan(s) with division logo
- Watch
- Safety glasses
- Sun glasses

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- Running shoes
- Shorts (workout)
- Pants (workout)
- FR Under Armor heat gear
- FR Under Armor cold gear
- Long underwear
- Gloves (for warmth)
- Socks
- Insoles for boots/shoes
- Re-sole boots/shoes
- Class A dress uniform and all accessories
- Overcoat for Class A uniform
- Shoe polish

Personal Gear:

- Knife
- Multi-purpose tool
- Flashlight (NFPA approved, or at least meets standards for task it will be used in i.e.; special duty)
- Flashlight bulbs
- Door wedges
- Extrication gloves
- Tools for turnout gear (screwdrivers, pliers, vice grips, haligan tool, pocket spanner, etc.)
- Strobe light (approved for safety)
- Leather fire boots
- Leather suspenders
- SCBA mask bag
- Prescription SCBA mask
- Portable radio (division use with identifier)
- Public safety communications monitor
- Lapel mic
- Portable radio strap
- Portable radio case
- 1 MP3 player per year
- Cell phone and accessories, charging cords, batteries
- Batteries all sizes (for approved devices)
- Gear bag
- Bedding (for division beds)
- Truck man's belt
- Personal escape pack
- Ballistic vest
- Vehicle organizer
- Leather helmet, Phenix TL-2 of similar model as approved by the Chief

Department Related Educational Material:

- Books (including promotional exam study material)
- Computer programs
- Videos, CDs and DVDs

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In additional to their regular base pay, each employee assigned to 40-hour shifts (2080 hours annually) will receive longevity compensation in accordance with the following schedule:

| YEARS OF SERVICE | |
|--|-----------------|
| Beginning the 5 th year of service through completion of the 9 th year of continuous service | \$0.52 per hour |
| Beginning the 10 th year of service through completion of the 14 th year of continuous service | \$0.58 per hour |
| Beginning the 15 th year of service through completion of the 19 th year of continuous service | \$0.66 per hour |
| Beginning the 20 th year of service through completion of the 24 th year of continuous service | \$0.74 per hour |
| Beginning the 25 th or more years of service | \$0.78 per hour |

Longevity pay is based on continuous years of service with the City of Newark. Payment of longevity compensation will be added to the employee’s base rate of pay.

ARTICLE 27 HOSPITALIZATION, MEDICAL AND LIFE INSURANCE

Section 27.1 Healthcare Committee The Employer shall provide group medical insurance coverage for each employee and dependents in accordance with the schedule of benefits attached or one mutually agreed to by a majority of the members of the Health Care Committee (HCC) which shall be comprised of a representative of each bargaining unit and two (2) members appointed by the City Administration.

Section 27.2 Control of Costs The Employer, Union and employees acknowledge the importance of and must engage in mutual efforts to control the cost of health insurance care. As premium rates increase over the course of this Agreement, the parties agree to meet and discuss the increase in premium cost for the purpose of discussing alternatives to maintain cost control, including, but not limited to alternate insurance coverage or alternate means of providing coverage. During the period of the Agreement the HCC shall meet regularly in order to monitor and control health care costs. The HCC with a majority vote of the committee shall have the authority to modify the benefits, premium allocation, or premium during the life of this Agreement to maintain health insurance coverage.

Should the HCC fail to reach a majority vote on a solution the City may implement plan design modifications or premium increases not to exceed a 8% increase annually to the City plan which may be made to maintain coverage. The City agrees to provide the Union the opportunity to review and respond to the City’s modifications to the City plan and the Union agrees to provide alternatives measures to maintain, reduce or limit increases in premiums and/or costs of providing coverage. Among the measures the City may implement and the parties may discuss will be wellness programs, screening programs,

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tobacco use programs and well as other measures either the City or Union may identify in discussions regarding the City's plan for health insurance coverage.

The Union understands and agrees that any increase in the premium rates for health, medical, and related insurance premiums shall be a factor considered in the total economic proposals for successive negotiations. Any rate increases which may be implemented during the period of this Agreement shall also remain subject to the wage negotiations of subsequent Agreements.

It is further agreed and understood that during the term of this Agreement that individual carriers/providers may, through no fault of the City, Union, or employees cease coverage. Should such occur, any employee adversely affected shall be given the opportunity to enroll with an alternative carrier with the appropriate premium rates subject to the premium rate applied herein or to waive coverage and receive an appropriate pro-rata amount of the waiver of coverage payment.

The parties agree and understand that the health care coverage is subject to the Affordable Care Act (ACA). Should any provision of the City's plan conflict with the ACA, or other applicable laws or regulations, those provisions of the City plan will be immediately suspended and if a resolution cannot be determined and implemented within 60 days of the suspension such provisions of the City plan will no longer be in effect. In this event the City agrees, if the Union requests, to discuss the impact of those provisions of the City plan determined to be in conflict with the ACA or other laws or regulations. The Union agrees that it will present alternative measures with cost impact a consideration.

Section 27.3 Contributions The parties agree that contributions to the premiums for health insurance provided by this Article will be paid as follows:

Year 1 (2017)

| | |
|-----------------------------------|----------------------------|
| City share of monthly premium | 88% * |
| Employee share of monthly premium | 12% pre-tax contribution * |

Year 2 and 3 to be determined by the HCC

The employee's premium contribution (individual, double or family) will be deducted bi-weekly in equal increments.

Section 27.4 Non-Pay Status An employee in a non-pay status due to their own health related condition or that of an immediate family member will be required to pay the employee's share of the monthly health insurance premium.

An employee in a non-pay status for reasons other than a health related condition, will be responsible for one hundred percent (100%)

Platoon Employees

| | | |
|-----------------|---|--|
| 48 – 95 hours | = | one quarter of the total monthly premium |
| 96 – 143 hours | = | one half of the total monthly premium |
| 144 – 191 hours | = | three quarters of the total monthly premium |
| 192 plus hours | = | one hundred percent of the total monthly premium |

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Staff Employees

| | | |
|-----------------|---|--|
| 40 – 79 hours | = | one quarter of the total monthly premium |
| 80 – 119 hours | = | one half of the total monthly premium |
| 120 – 159 hours | = | three quarters of the total monthly premium |
| 160 plus hours | = | one hundred percent of the total monthly premium |

Section 27.5 Waiver of Coverage An employee who provided satisfactory proof of medical coverage under another employer sponsored insurance plan may waive medical coverage. An employee who waives coverage will receive up to the following maximum:

| | |
|-----------------------------------|-----------|
| Waiver of medical insurance | \$3000.00 |
| Waiver of dental insurance | \$ 150.00 |
| Waiver of both (dental & medical) | \$3150.00 |

Payments will be made in December of the calendar year coverage is waived. Payments for new hires, terminations, etc., will be prorated.

City employees married to one another or children of City employees that are employed by the City, who waive coverage, but remain on the plan are not eligible for the waiver stipend.

Section 27.6 Life & Dental Insurance Each bargaining unit employee shall receive, at the expense of the City, a thirty thousand dollar (\$30,000) term life insurance policy containing a double indemnity clause covering accidental death benefits. The City will make available dental insurance coverage for employees.

Section 27.7 Labor-Management Committee Employer and Union agree to establish a joint Labor Management Committee to study medical insurance benefits plans.

Section 27.8 Spousal Coverage If the spouse of a City employee is employed and is eligible for employer sponsored health coverage with said employer, he/she must enroll in the particular health plan. City employees married to one another shall be covered under one City double or family coverage plan. If the spouse cannot obtain coverage through his or her employer until a certain date or open enrollment period, the spouse will be covered under the City's plan until he or she can obtain coverage through his or her employer. The spouse must provide documentation to the City that he/she is not eligible for coverage. The employee shall notify the Human Resources Department immediately (as soon as possible) and complete the required documentation when there is a change with his or hers spouses health care coverage. Failure to make such notification and complete the required paperwork will result in all monies owed to the City for the difference in premium to be deducted from the employees paycheck until the balance is paid in full unless other arrangements have been made. Employees whose spouses have health insurance coverage through an employer, which coverage does not provide the same level of benefits as the City plan, are entitled to \$1077 in a flexible spending account or reduced premium, at the City discretion. Spouses can also remain on the City's plan under secondary coverage.

ARTICLE 28

OPERATORS INSURANCE

Section 28.1 Liability Coverage The City shall maintain liability insurance covering bargaining unit members in an amount substantially similar to that in effect as of April 15, 2010.

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ARTICLE 29

NO STRIKE/NO LOCKOUT

Section 29.1 **Service to the Public** Inasmuch as this Agreement provides machinery for the orderly resolution of grievances, the Employer and the Union recognize their mutual responsibility to provide for uninterrupted services to the citizens of Newark, Ohio.

Section 29.2 **No Strike** The Union agrees, during the term of this Agreement, that neither it, its officers, agents, representatives, or members will authorize, instigate, cause, aid, condone, or participate in any strike, work stoppage, or any other interruption of operations of services of the Employer, by its members or other employees of the Employer. When the Employer notifies the Union by certified mail that any of its members are engaged in any such strike activity, as outlined above, the Union shall immediately, conspicuously post notice over the signature of authorized representative of the Union to the effect that a violation is in progress and such notice shall instruct all employees to immediately return to work. Should the employees fail to return to work or the Union fail to post such notice, the Employer shall have the option of canceling any article, section, or sub-section of this Agreement. Any employee failing to return to work after notification by the Union as provided herein, or who participates or promotes such strike activities as previously outlined, may be discharged and only the question of injury leave whether or not he/she did in fact participate in or promote such action shall be subject to appeal.

Section 29.3 **No Lockout** The Employer agrees that neither it, its officer, agents, or representatives, individually or collectively, will authorize, instigate, cause, aid or condone any lockout of members of the Union, unless those members shall have violated Section 1 of this Article.

ARTICLE 30

WAIVER IN CASE OF EMERGENCY

Section 30.1 **Emergency** In cases of emergency declared by the President of the United States, the Governor of the State of Ohio, the Mayor, or Newark City Council, the Federal or State Legislature, due to acts of God, civil disorder, etc., the following conditions of this Agreement may be suspended:

- Time limits for the Employer or the Union's replies on grievances.
- All work rules and practices relating to the assignment of all City employees.

Section 30.2 **Termination of Grievance** 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 point in the grievance procedure to which they (the grievance(s)) had properly progressed.

ARTICLE 31

SAVINGS CLAUSE

If any provision of this Agreement, or the application of such provision should be rendered or declared invalid by any court action or be invalid by reason of any existing or subsequently enacted legislation or Civil Service Rules and Regulations, the remaining parts or portions of this Agreement shall remain in full force and effect.

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ARTICLE 32

DIFFERENTIAL

Section 32.1 Paramedic Differential Firefighter/paramedics shall receive additional pay equivalent to seven (7) percent of their regular hourly rate, as set forth in Article 39, for hours assigned to the medic unit and worked as a paramedic.

Section 32.2 Annual Paramedic Lump Sum In addition, all employees possessing an EMT-P card shall be paid an annual lump sum of eight hundred dollars (\$800.00). This payment shall be made with the first pay check issued in December. An employee separating from the City prior to the date of annual issuance shall be paid that prorated portion due him/her for time served in that calendar year. An employee hired after the beginning of the year shall be paid that prorated portion due him/her for time served in that calendar year. An employee must serve a minimum of two hundred eighty-eight hours per year on a transport unit to receive the annual bonus. Forty (40) hour employees may meet this requirement with scheduling approved by the Chief.

Section 32.3 Fire Investigator/OPOTA Certified Members assigned to Fire Investigator/ or Fire Marshal with the approval from the Chief of Fire and Chief of Police and the IAFF and FOP representing the City of Newark employees, may at their request receive Ohio Peace Officer Training Academy/OPOTA training. This training and all continuing education or qualification requirements shall be paid for by the Employer and overtime paid for all hours attended.

OPATA shall not be required to work as Fire Investigator/Fire Marshal,

Members who obtain their OPOTA training as approved above shall receive an additional hourly pay differential equal to 7% of their current rate of pay per Article 39 of the CBA. Members must complete all the required law enforcement training.

Members shall not count toward staffing of the Newark Police Department and shall under normal circumstances confine their peace officer duties to investigating and processing arson cases or suspicious fires for the Fire Department.

ARTICLE 33

MILITARY LEAVE

Section 33.1 Payment for Military Leave When a member is on military leave for both annual training and weekend duty or otherwise performing in the active or reserve forces of the United States military or Ohio National Guard, the City will pay the employees regular rate for a period not to exceed 408 hours in a calendar year period. Employees must notify, in writing, the Chief or his/her designee at least seven (7) calendar days in advance of dates to be taken as military leave, unless an emergency situation exists. In the event that an employee is notified or has knowledge of scheduled military duty, such as weekend training or annual training, the employee shall notify the Chief or his/her designee of the scheduled training as soon as the employee is notified of such training..

Section 33.2 Extended Tour of Duty Any member who is called to military duty for a period in excess of four hundred eight (408) hours in any one calendar year is entitled to a leave of absence and to be paid, during each month of that period, the lesser of the following:

- 1) The difference between his gross monthly wage or salary as an employee and the sum of his gross military pay and allowances received that month;

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2) Five hundred dollars.

No member shall receive payments under this section if the sum of his/her gross military pay and allowances received in a month exceeds his/her gross monthly wage or salary as an employee.

Section 33.3 **Federal and State Laws** The City will follow and conform to all state and federal laws which pertain to military leave and the rights of military personnel.

ARTICLE 34 **PERSONNEL REDUCTION**

Section 34.1 **Layoff Laws** Layoffs shall be conducted in accordance with the provisions of the Civil Service Statutes of Ohio, Revised Code Chapter 124, as those provisions were in effect on the date of execution of this Agreement.

ARTICLE 35 **PROMOTIONS**

- A. Testing for positions of Lieutenants and Captains and Assistant Chiefs in the bargaining unit. At least six (6) months prior to the expiration of a current eligibility list, the City shall post a notice of the holding of a promotional examination for Lieutenants, Captains, and Assistant Chiefs. All testing for promotion with the Newark Division of Fire will be done with strict adherence to the highest professional standards so as to ensure a fair and impartial test result. The examination questions and sections will be pertinent to the position for which the test is being given. If the City decides to significantly change the testing procedures, it shall advise and consult with the IAFF before making the changes. All facets of the test shall be administered and scored by the Ohio Fire Chief's Association as an independent testing service. The City and the City Civil Service Commission shall, in accordance with the Commission's rules, upon expiration revoke the eligibility list and post the final results of a new promotional examination leaving a valid list in place at all times. The time for giving a promotional examination may be postponed for one year with the written consent of the IAFF when, for instance, no turnover is anticipated in the next year in the position of Captain or Assistant Chief.
- B. All facets of the test shall be administered and scored by the Ohio Fire Chief's Association or Ergometrics. The City and the City Civil Service Commission shall, in accordance with the Commission's rules, upon expiration revoke the eligibility list and post the final results of a new promotional examination leaving a valid list in place at all times.
- C. The time for giving a promotional examination may be postponed for one year with the written consent of the IAFF when, for instance, no turnover is anticipated in the next year in the position of Captain or Assistant Chief.
- D. Test Construction. All promotional tests will be comprised of the following:
 - 1) Written, containing at minimum 200 questions,
 - 2) Practical; and
 - 3) Oral/Structured interviews

All promotional tests for positions in the bargaining unit will consist of a written portion to be graded after its completion. A score of 70 must be achieved prior to being eligible to continue the testing process. Passing candidates will then proceed to the practical and oral portions of the test. In the final score, the written portion will be weighted at 50% of the score. All applicable Civil Service points will be then added to the final test score.

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E. Reference/Study Material

The list of reference material, for all positions, is located at the end of this article.

Promotional tests will be created to include the above material utilizing current edition at time of posting. Current shall mean latest edition available for purchase at time of posting, posting shall specify the specific edition to be used, IE; 3rd edition, etc.

F. Eligibility for Promotion

- 1) Any regularly appointed, full-time Firefighter, Firefighter/paramedic who has served four (4) or more years after completion of probation with the Newark Fire Division, at the time the test is given, is eligible to take the examination for Lieutenant or those addressed in Article 35G.
- 2) Any regularly appointed, full-time Lieutenant or Captain, who has served twelve months after completion of probation with the Newark Fire Division, at the time the test is given, is eligible to take the next level examination or those addressed in Article 35G.

G. Lack of passing scores. When testing for Lieutenant, if a test is scored and there is no participant who scores 70 percent in the written portion of that test, a new test will be administered. The participants eligible in the first test can participate. Also the next eligible level of candidates (to be described below) will be invited to participate in the second test. The list will be exhausted until the test becomes competitive. Passing candidates will then proceed to the practical and oral portions of the test.

If no candidate passes the Captain or Assistant Chief test with a total score of 70, a new test will be administered. The participants eligible in the first test can participate. Also the next eligible level of candidates (described below) will be invited to participate in the second test. The next available level of candidates will be invited to participate until the test becomes competitive.

For all tests original participants are eligible to retake the test. Under no circumstances will a new test be given to include only participants from the original test. Eligibility will be in the following order until competitive:

- 1) Those who are on probation for that rank
- 2) Those who are in the next lower rank who are off probation

H. Challenges and Appeals. Test scores shall be posted within 14 days of receipt from the testing service. Examination participants may file a challenge or appeal with the Civil Service Commission to any question, portion of the testing process, incorrect scoring, or unfairly phrased question within 10 days of when the Commission posts the scores of the promotional examination in accordance with civil Service Commission rules. A copy of such challenge or appeal shall be provided to the Director of Human Resources. Failure to timely file such a challenge with the Commission and Director of Human Resources waives any right by the member to challenge the results of the promotional examination. The Commission shall act on the appeal or challenge in accordance with its existing rules and regulations within 45 days receipt. Final grades are to be posted within ten (10) days after completion of the appeal process. Should the Commission fail to resolve all pending challenges and appeals the grievance process

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or action cited under ORC 124.45 and other means available within Civil Service can be utilized. Grievances may be filed challenging a timely decision of the Civil Service Commission, or the Human Resources Director.

- I. Eligibility List. Within 5 days of when any challenges have been resolved in accordance with this article or when the scores are posted, a list of eligible candidates for promotion, descending from the highest score, for each rank for which a test was given, shall be compiled and posted by the Civil Service Commission or, if applicable, the Director of Human Resources. The eligibility list shall remain in effect for two (2) calendar years from date of posting final score. In the event that no eligible candidates remain on any eligibility list for Lieutenant, Captain, and/or Assistant Chief prior to the expiration date, a new test shall be given.
- J. Appointment. The promotional appointment shall be made from the eligibility list within ten (10) days after a vacancy occurs in the absence of compelling circumstances.
- K. Except to the extent covered by this agreement ORC and local Newark Civil Service rules shall be followed.

| Book Title | Author | Publisher | LT | CAPT | AC |
|--|---------------|--------------------|-----------|-------------|-----------|
| Essentials of Firefighting and Fire Department Operations 6th Ed. | IFSTA | IFSTA | X | | |
| Fire and Emergency Services Company Officer 5th Ed. | IFSTA | IFSTA | X | | |
| Building Construction Related to the Fire Service 4th Ed. | IFSTA | IFSTA | X | | |
| Fire Service Law | Bennett | Pearson | X | | |
| Fire Officers Handbook of Tactics 4th Ed. | Norman | Fire Engineering | | X | |
| Fire Investigator 2nd Ed. | IFSTA | IFSTA | | X | |
| Effective Supervisory Practices 5th Ed. | ICMA | ICMA | | X | |
| Collapse of Burning Buildings 2nd Ed. | Dunn | Fire Engineering | | X | |
| Fire Department Incident Safety Officer 3rd Ed. | Dodson | Jones and Bartlett | | | X |
| Fireground Strategies 2nd Edition | Avillo | Fire Engineering | | | X |
| Fireground Command Decision Making | Gassaway | Gassaway LLC | | | X |
| Incident Command System (ICS) Model Procedures Guide for Incidents Involving Structural Firefighting High-Rise, Multi-Casualty, Highway, and Managing Large-Scale Incidents Using NIMS-ICS | | | | | X |
| Newark Fire Resources | | | | | |
| CBA | | | X | X | X |
| NFD SOP's/Rules and Regulations | | | X | X | X |
| NFD EMS Protocol | | | X | X | |

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ARTICLE 36

ASSIGNMENTS

Section 36.1 Assignments The right to bid assignments shall be given to employees based on length of service and qualifications. While during the bid process a senior person bids on an assignment but does not currently hold all of the proper qualifications, this person will be afforded the opportunity to achieve the proper qualifications in a timely manner under normal circumstances and then awarded the bid. During this process, the next most senior qualified person who bid on the position will be awarded the bid on a temporary assignment if he chooses to accept the temporary assignment, if not it moves on down the bid assignment list. This acknowledges that there could be unforeseen circumstances (i.e. class not available for a long period of time, death in the family, etc.) that prohibit the most senior person from being able to achieve the proper qualifications thus leaving it up to the Chief's discretion.

ARTICLE 37

CORRECTIVE ACTION AND PERSONNEL RECORDS

Section 37.1 Corrective Action The employment of every bargaining unit employee shall be during good behavior and efficient service and no such employee shall be reduced in pay or position, suspended, removed or otherwise disciplined except as provided in this section and for incompetency, inefficiency, dishonesty, insubordination, discourteous treatment of the public, neglect of duty, violation of work rules, or any acts of misfeasance, malfeasance, or nonfeasance in office, provided that an employee may be disciplined for off duty conduct only if such conduct has an adverse effect on the City or the employee's ability to do his/her job. Newly hired employees still in their probationary period may file a grievance under Article 6 of this agreement if they are removed during their probationary period provided, however, that the removal of a probationary employee is not subject to arbitration.

Section 37.2 Employee Records Records of disciplinary action shall be maintained in an employee's personnel file. Any employee or his/her authorized representative may inspect the employee's personnel file at reasonable business hours. An employee may obtain copies of materials in his/her personnel file. The City may establish a reasonable copying charge for the materials.

An employee may dispute any information in his/her file by placing a letter in his/her file setting forth the basis of his/her objection. The objection may challenge the accuracy, timeliness, relevance, or completeness of the information in the employee's file.

The provisions of this section shall apply to the official personnel file maintained by the Human Resources Director for each employee of the bargaining unit. Only one official file shall be maintained.

An employee shall be notified of any request to review the employee's personnel file or to obtain copies of any documents from the employee's personnel file.

If progressive disciplinary action is taken against an employee, only those records of prior disciplinary action as are contained in the official personnel file may be considered (such as records of reprimands and suspensions but not including evidence supporting disciplinary action). Oral reprimands and any documentation of oral reprimands shall not be used for any purpose, including progressive disciplinary action, 18 months after such was given provided that no further disciplinary action of the same or similar nature has occurred. A written reprimand shall not be used for any purpose, including progressive disciplinary action, 18 months after such was given if no further disciplinary action of the same or similar nature has occurred. Any suspension or demotion shall not be used for any purpose, including progressive disciplinary action, five (5) years after such was given provided that no further discipline resulting in a suspension or demotion has occurred.

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Section 37.3 Internal Investigations

A. The Fire Chief or his/her designee may conduct an investigation of alleged misconduct by an employee, and require oral or written statements from that employee. The employee under investigation of misconduct will be provided a copy of those allegations against him/her, including the name of the person(s) making the allegations, prior to being questioned or required to provide a statement involving alleged misconduct. Upon request, the employee will be provided an opportunity for representation and to review documents to refresh the employee's memory prior to providing a statement.

B. If the investigation is not completed within thirty (30) days of the employee submitting to an interview or giving a statement involving the alleged misconduct, the Fire Chief shall forward to the employee a status report regarding the investigation, including the estimated time of completion. This report will not be used in any criminal proceedings against the employee, but may be used by the City in taking action, and defending such action, with respect to discharge or discipline of the employee.

C. An employee shall be provided a copy of any reprimand issued within seven (7) days.

Section 37.4 Disciplinary Procedure

Disciplinary action shall be imposed by the Fire Chief, except that any reductions in pay or position, suspensions, or removals shall be imposed by the Safety Director. Before such disciplinary action is imposed, the employee must be provided with written notice of the specific charges against the employee, a summary of the evidence supporting those charges, and the opportunity for a hearing before the Safety Director.

Any employee who has allegedly committed a violation of a minor nature relating to his/her performance may be interviewed by his/her immediate supervisor prior to the supervisor issuing an oral or written reprimand. The employee shall have a right to representation during such interview, except that an on the spot interview during or practically contemporaneous with the events in questions does not require the presence of a third party. Any statement made by the employee in connection with such an interview by his or her immediate supervisor, in which the employee was not represented, may not be used by the City against the employee in connection with any other disciplinary action.

Upon receipt of a written request, the city will permit the employee or his/her representative at his/her own expense, to inspect and copy or photograph any of the following which are available to or within the possession, custody or control of the city and the existence of which is known or by the exercise of due diligence may become known to the city.

- A. Relevant written or recorded statements;
- B. Books, pages, documents, photographs, tangible objects, building or places, or copies or portions thereof, available to or within the possession, custody or control of the city and which are intended for use by the City as evidence at the hearing;
- C. Any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with the particular case, or copies thereof;
- D. Written lists of the names and addresses of all witnesses;

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- E. All evidence known or which may become known to the city either favorable or detrimental to the employee and material either to the truth of the allegations or the punishment.

Documents which are privileged or otherwise prohibited from disclosure by state or federal law are protected from discovery under this article. The employee may be represented by the union president or president's designee or an attorney at the hearing. The employee or the employee's representative shall be allowed to call witnesses and/or question adverse witnesses at the hearing.

Discipline may be imposed after the hearing. The employee at his/her option may waive the hearing. The Fire Chief or his designee may place a member on administrative leave with pay pending the outcome of the hearing set forth in this section.

Section 37.5 **Appeal of Discipline** Discipline is subject to the grievance procedure set forth in Article 6, Section 4.

ARTICLE 38 **MEDICAL RECORDS**

Medical records of an employee shall be considered confidential and maintained in accordance with all state and federal statutes including but not limited to HIPAA.

ARTICLE 39 **WAGE TABLE OF BASE WAGE RATES**

Section 39.1 The base wage rates as listed in Appendix A shall be effective through December 31, 2019.

Section 39.2 Forty (40) hours per week shall be used as base hours when calculating hourly payments under this Agreement. This can be computed by doing the following:

Annual pay divided by 2080 hours = per hour base rate of pay.

Effective January 1, 2017 the wage table (Appendix B) shall reflect an annual increase of 1.75%.
Effective January 1, 2018 the wage table (Appendix B) shall reflect an annual increase of 1.75%.
Effective January 1, 2019 the wage table (Appendix B) shall reflect an annual increase of 1.50%.
Effective January 1, 2017 differential for officers will be calculated using the rank immediately below the affected rank. The differential shall be 12.7%.

ARTICLE 40 **CONTRACTING OUT**

It has been in the past and will continue to be in the future the City of Newark's intent to provide professional service to our citizens at a competitive overall cost to the community.

Our current firefighter/paramedic workforce has provided that kind of service for Newark and therefore, no member of Local 109 of the I.A.F.F. will be displaced by any external firefighter/paramedic providing organization.

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ARTICLE 41

TUITION REIMBURSEMENT

Section 41.1 Eligibility All full-time employees with one or more years of continuous active service shall be eligible for 100% reimbursement up to an annual (designated fiscal year) individual aggregate amount of thirty five hundred dollars (\$3,500.00) for undergraduate courses taken towards an Associates or Bachelor's degree and forty five hundred dollars (\$4,500.00) for graduate courses taken towards a masters or other graduate degree. Any employee intending to use tuition reimbursement shall submit a letter of intent with estimated cost for the entire year. Such letter of intent shall be submitted by January 30, all courses of instruction, pre-approved by the Fire Chief, Safety Director, and Human Resources Director and voluntarily undertaken by the employee. The annual aggregate liability to the City for the entire Fire Division will not exceed twenty-five thousand dollars (\$25,000) per fiscal year.

Employees will submit the request per quarter, semester or other module, established by the institution, in advance and include the full amount (tuition and estimated cost of allowed expenses requested). Upon approval, a purchase order will be issued encumbering the money. The availability of funds is on a first come, first served basis and there is no guarantee of approval if the total amount described in paragraph one is exhausted. A report will be published monthly by the division fiscal manager and distributed to the Chief and the IAFF President.

Employees will notify the Office of the Chief, in writing, within seven (7) calendar days if they withdraw from a course, fail the course, or fail to obtain a C or above, the course is cancelled or in any other event in which reimbursement will not be permitted. The monies encumbered can then be unencumbered and made available to other employees. Employees failing to make a proper notification may have their privileges under this Article suspended for a period of six (6) months.

Public Safety classes taken pursuant to paragraph "C" and not part of a degree program are limited to one course per year at a total cost not to exceed five hundred dollars (\$500.00). These funds are subject to availability of funds listed in paragraph one. These courses are subject to the approval of the Fire Chief with regards to manpower and operational needs.

The tuition reimbursement program shall be subject to the following conditions:

- A. All courses applied towards a degree must be taken during other than scheduled working hours, unless otherwise approved by the chief. All scheduled hours for courses of instruction must be filed with the Chief or his designee. All courses are subject to the approval of the Chief. There must be a correlation between the member's duties and responsibilities and the courses taken or the degree program pursued. Any situation which, in the discretion of the Chief, would require a member's presence on the job shall take complete and final precedence over any time scheduled for courses.
- B. Any financial assistance from any governmental or private agency available to a member, whether or not applied for and regardless of when such assistance may have been received, shall be deducted in the entire amount from the tuition reimbursement the member is eligible for under this section. If a member's tuition is fully covered by another governmental or private agency, then the member is not entitled to any payment from the City.
- C. Employees seeking authorization of a tuition reimbursement must first submit to the department head for review, all necessary information pertaining to the proposed course degree to be pursued, the educational institution and the employee's best estimate of courses to be taken.

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Courses must be taken at accredited colleges, universities, technical and business institutes or through their established extension centers, and Fire Academies or courses, which must first be approved by the Fire Chief, Safety Director, and the Human Resources Director

- D. Reimbursement for tuition will be made when the member satisfactorily completes (attains at least a grade of "C": or its equivalent for undergraduate work and a grade of at least "B" or its equivalent for graduate work) a course and presents an official certificate or its equivalent and a receipt of payment or copy of the unpaid bill from the institution confirming completion of the approved course.
- E. Reimbursement for required books, instructional materials and fees other than penalty fees for any course outlined in paragraph D shall be at 100%. Reimbursement for books and instructional materials which are strongly advised, though not required, shall be at 25%. There shall be no reimbursement for meals, travel expenses, housing, or extra-curricular activities.
- F. Department equipment will be made available for departmental sponsored classes or tuition reimbursement approved classes, with the approval of the Chief of Fire.
- G. Any employee participating in the tuition reimbursement program who resigns (except resignation due to disability), retires (except retirement due to disability) or is discharged for cause must repay the tuition reimbursement paid by the City for courses taken less than two years prior to the date of termination or discharge. If necessary, this amount will be deducted from the employee's terminal leave pay or final paycheck.

ARTICLE 42

PARAMEDIC CERTIFICATION

Section 42.1 Certification Required All Employees hired after November 19, 2002 shall be required to obtain paramedic certification within three years of his or her hire date as a condition of employment, provided that the City shall pay for and enroll the employee in a paramedic program within one year from the employee's date of hire. All employees hired after January 1, 2007 must retain their paramedic certification unless given chief's approval.

Section 42.2 Continuation of Certification Non-officer bargaining unit members who are certified paramedics may drop or not renew their paramedic certification so long as there remain forty-six (46) other non-officer certified paramedics below them in seniority on the Department.

Section 42.3 Requests to Rescind Certification Employees requesting to rescind, not re-certify or regain paramedic certification shall do so in accordance with procedures, rules and regulations established by the Department.

ARTICLE 43

TRAINING AND CONTINUING EDUCATION

Section 43.1 The City shall provide the necessary training for the level of service provided. The Training Coordinator shall assess the priority of needs and channel identified funds for training toward those needs. The division and Union will continue to review and assess the training needs of the Division.

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Section 43.2 EMS Training

- A. The Division shall provide the necessary training to maintain state EMT certification for all members. This shall include, but not limited to, on and off company training and an internet based continuing education program.
- B. By October 1 of proceeding year the EMS coordinator will meet with the Medical Director to determine required training.
- C. The Division shall provide a minimum of four (4), off company, EMT CEU training sessions a year with a minimum of four (4) hours for each session. Each class will be offered twice and an employee may only be compensated once for each class. Members shall be compensated with overtime pay or comp time, at the employee’s choice, at the overtime rate, for the number of hours attended. These sessions shall be in addition to Pediatric Advanced Life and Advanced Cardiac Life Support, which will be offered when members are not assigned to company or normal work business within the Division, on alternate years.

ARTICLE 44 DIRECT DEPOSIT OF PAY

All employees shall have their net pay directly deposited into their personal account at a financial institution of their choice. Direct deposit of pay is based upon the written authorization and instructions of the employee. The City will endeavor to provide direct deposit with local financial institutions but shall not be required to furnish direct deposit with any particular financial institution if the City determines that it is impracticable to do so. The City shall have no responsibility for any errors or omissions made by the employee’s financial institution with regard to the direct deposit of the employee’s paycheck or the employee’s personal account.

ARTICLE 45 EMPLOYEE DRUG TESTING

Section 45.1 Purpose The purpose of this policy is to provide all employees of the Newark Fire Department with the notice of the provisions of the Department drug testing program.

Section 45.2 Policy It is the policy of the Newark Fire Department that the critical mission of emergency services justifies maintenance of a drug-free work environment through the use of a reasonable employee drug testing program. The uniquely compelling interest of the emergency services profession justifies the use of employee drug testing. Officer integrity and public trust are essential components of a successful emergency services department. Therefore, in order to maintain public trust, it is the policy of the Newark Fire Department to implement a drug testing program for all employees in safety-sensitive positions.

Section 45.3 Definitions

A. Drug Test. The compulsory production and submission of urine, or blood or submission to a breathalyzer, by an employee in accordance with Departmental procedures, for chemical analysis to detect prohibited drug or alcohol usage. While this Policy contemplates the general submission of urine for detection and analysis of controlled substances, it does not preclude the departmental from using a blood or other test for the same purposes.

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B. Reasonable Suspicion. That quantity of proof or evidence that is more than a hunch, but less than probable cause. Reasonable suspicion must be based on specific, objective facts and any rationally derived inferences from those facts about the conduct of an individual that would lead the reasonable person to suspect that the individual is or has been using illegal drugs while on or off duty.

C. Random Selection. A method of selection in which each and every employee has an equal chance to be selected for drug testing each and every time a selection is conducted. This random selection process shall be conducted by an outside agency. Up to twenty percent (20%) of the employees shall be randomly selected on an annual basis.

D. Probationary Employees. Newly hired employees whose probationary period is determined by existing labor laws and contractual obligations between the City and their respective unions. A probationary employee shall be any person who is conditionally employed with the Department.

E. Controlled Substances. Any substance which is illegal to consume, possess, manufacture or distribute, or any psychoactive substance, drug, or medication that requires the prescription of a licensed medical practitioner. A drug, compound, mixture, preparation or substance included in schedule I, II, III, IV, or V.

F. Drug. Any substance, including alcohol, that is restricted or prohibited by this Policy, state, or federal law.

G. Dangerous Drug. Dangerous drug has the same meaning as in section 4729.01 of the Revised Code.

H. Prescription Drug. Any controlled substance or drug for which the employee is currently, or was previously, lawfully prescribed by a licensed physician.

Section 45.4 Prohibited Activities

- A. No employee shall illegally possess any controlled substance.
- B. No employee shall ingest any controlled or dangerous substance, unless prescribed by and taken in accordance with directions of a licensed medical practitioner.
- C. No employee shall consume any intoxicating beverage while on duty or on Department premises unless authorized by a supervisor in the course of his or her employment.
- D. No employee shall report for duty with the odor of alcohol on their breath or under the influence of alcohol (as defined below).
- E. No employee shall report for work or be on duty when his or her judgment or physical condition has been impaired by alcohol, controlled, dangerous or illegal substances.

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Section 45.5 Required Activities

- A. Employees shall notify their immediate supervisor when required to use Prescription Drugs or other medicine which they are aware has the potential to impair job performance and could constitute a direct threat to themselves, the public or other employees if called to respond to an emergency or perform their essential job duties while under the drug's influence. The employee shall advise the supervisor of the known side effects of such medication and the prescribed period of use. The Employee is not required to disclose the reason for the prescription.
 - 1. Supervisors shall document this information and maintain it in a secure file that is kept separate from any personnel or other management file.
 - 2. The employee may be temporarily assigned to other duties, if appropriate.
- B. Any employee who unintentionally ingests a controlled or illegal substance shall immediately report the incident to their supervisor so that appropriate medical steps can be taken.
- C. Any employee having a reasonable basis to believe that another employee is illegally using, or in the possession of any controlled or illegal substance, shall immediately report the facts and circumstances to their supervisor.
- D. Discipline of employees violating this policy will be in accordance with discipline procedures.
- E. Employees who believe that they have a drug and/or alcohol problem and require treatment and/or rehabilitation must request a medical leave of absence in accordance with established procedures prior to when their drug and/or alcohol problem becomes a performance problem or exposes other employees or the public to a threat of harm or risk of injury. Employees who request a medical leave of absence in accordance with this Section shall not be subject to disciplinary action. Such employees may, however, be subject to a return-to-work drug and alcohol test and to periodic drug and/or alcohol testing after their return to work when required by their treatment plan and or recommended by their treatment counselors. Employees may not request a leave of absence pursuant to this Section after being requested to submit to a drug and/or alcohol test pursuant to this Policy.

Section 45.6 Probationary Employee Drug Testing

- A. All probationary employees shall be required as a condition of employment to participate in any drug test during the probationary period.
- B. Probationary employees violating this Article will be subject to the disciplinary procedure, up to and including termination.

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Section 45.7 Employee Drug Testing

- A. All employees will be required to submit to drug and/or alcohol tests, as a condition of continued employment. Employees selected for any drug and/or alcohol testing must submit to the testing procedures within one hour of receiving the order from the Chief and/or his designee.
- B. The Chief, or Assistant Chief may order an employee to take a drug test upon documented reasonable suspicion that the employee is or has been using illegal drugs, or improper use of controlled substances or is under the influence of alcohol in violation of this Policy. A summary of the facts supporting the order shall be made available to the employee prior to the test.
- C. A drug test will not be a part of any Annual Medical Evaluation.
- D. Employees may be subject to drug testing prior to returning to work after any 45 calendar day or more absence.
- E. Employees may be subject to drug testing after any on-the-job injury requiring medical treatment or vehicle accident involving City property or equipment.

Section 45.8 Drug Testing Procedures

- A. The testing procedures and safeguards provided in this Policy shall be adhered to by the Ohio Health Consortium. If OHC no longer offers this service, the new agency must be DHHS and SAMHASA certified.
- B. Personnel authorized to administer drug tests shall require positive identification from each employee to be tested before entering the testing area.
- C. A pre-test interview shall be conducted by testing personnel with each employee in order to ascertain and document the recent use of any prescription or non-prescription drugs, or any indirect exposure to any drug or compound that may have an effect on the test that could result in a false positive test result. Employees who test positive for any controlled substance will have 24 hours to produce a copy of a lawfully issued current prescription for the tested substance.
- D. The area in which the urine, breath or blood samples are collected shall be private and secure.
- E. Authorized testing personnel shall search the urine, breath, or blood sample collection area before each employee enters to produce a urine sample and document that the area is free of foreign substances and free of contamination.
- F. Prior to entering the collection area, each employee will provide satisfactory proof that they do not possess anything that may invalidate the test. Disrobing may be necessary to satisfy testing personnel.

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- G. Each employee will enter the collection area when directed to and produce a urine, blood, or breath sample that will be collected by testing personnel.
- H. Testing personnel will observe the production of a urine, blood, or breath sample by each employee in a way that will ensure integrity of the collection and testing procedure.
- I. Where the employee to be tested appears unable, or unwilling to give a specimen at the time of the test, testing personnel will document the circumstances on a drug test report form. The willing but unable employee will remain in the testing area and be given a reasonable amount of water to induce urination, if applicable.
- J. Failure to produce a urine, blood or breath sample shall be considered a refusal to submit to a drug test.
- K. Employees have the right that their urine sample be split. The urine sample must be provided at the same time, marked, and placed in identical specimen containers. One sample shall be submitted for immediate testing; the other shall be refrigerated and stored in a secure location.
- L. In the case of a split sample or a second sample, the second sample will be released by the testing agency under the following conditions and circumstances:
 - 1. The first specimen tested positive for a controlled substance; and
 - 2. The employee wishes to have the second specimen tested by an independent laboratory; and
 - 3. The laboratory conforms with professionally accepted local, state, or federal requirements for drug analysis; and
 - 4. A representative of the laboratory selected by the employee takes control of and observes the chain of custody procedures.
- M. Specimen samples shall be sealed, labeled, and checked for authenticity and verification. Samples shall be stored in a secure and refrigerated atmosphere until tested or delivered to a testing lab representative.
- N. Whenever there is a reason to believe that the employee may have altered or substituted the specimen to be provided, a second specimen shall be obtained immediately, under direct supervision of testing personnel.

Section 45.9 Drug Testing Methodology

- A. The testing or processing phase shall consist of a two-step procedure:
 - 1. Initial screening test; and
 - 2. Confirmation test.

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- B. The laboratory conducting the analysis shall be experienced and capable of quality control, documentation, chain of custody, technical expertise, and demonstrated proficiency in urinalysis.
- C. All drug testing performed under this policy shall be performed by a professionally qualified laboratory meeting standards defined by local, state, or federal authorities and approved by this agency.
- D. The urine, blood or breath sample is first tested using the initial drug screening procedure. An initial positive test result will not be considered conclusive; rather, it will be classified as "confirmation pending." Notification of test results to the Chief or his designee shall be held until the confirmation test results are obtained.
- E. A specimen testing positive will undergo an additional confirmatory test. The confirmation procedure shall be technologically different and more sensitive than the initial screening test.
- F. The drug screening test selected shall be capable of identifying marijuana, cocaine, and every major drug of abuse, including heroin, amphetamines, and barbiturates. Personnel utilized for testing will be certified as qualified to collect urine, blood or breath samples or adequately trained in collection procedures.
- G. Concentrations of the listed drugs at or above the following levels shall be considered a positive test result when using the initial fluorescence polarization immunoassay analysis drug screening test:

Initial Test Cutoff Levels in nanogram/milliliter (ng/ml)

| | Level (ng/ml) |
|--------------------|---------------|
| Marijuana | 50 |
| Cocaine | 300 |
| Opiate metabolites | 2000 |
| Phencyclidine | 25 |
| Amphetamines | 1000 |

Notwithstanding the foregoing, the listing of only certain controlled substances does not preclude the Department from determining the concentrations of other, unlisted controlled substances to constitute a positive drug test.

- H. Concentrations of the following drugs at or above the following levels shall be considered a positive test result when performing a confirmatory gas chromatography/mass spectrophotometry (GC/MS) test on a urine specimen that tested positive using a technologically different initial screening method:

Confirmatory Test Cutoff Levels in nanogram/milliliter (ng/ml)*

Level (ng/ml)

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| | |
|--|------|
| Marijuana metabolite (1) | 15 |
| Cocaine metabolite (2) | 150 |
| Opiates: | |
| Morphine | 2000 |
| Codeine | 2000 |
| 6-Acetyl morphine (3) | 10 |
| Phencyclidine | 25 |
| Amphetamines: | |
| Amphetamines | 500 |
| Methamphetamine (4) | 500 |
| (1) Delta-9-tetrahydrocannabinol-9-carboxylic acid | |
| (2) Benzoyllecoginine | |
| (3) Test for 6-AM when morphine concentrations exceed ng/ml. | 2000 |
| (4) Specimen must also contain amphetamine at a concentration of 200 ng/ml. | |

(*) Test thresholds employed by D.E.A., effective 1999.

Notwithstanding the foregoing, the listing of only certain controlled substances does not preclude the Department from determining the concentrations of other, unlisted controlled substances to constitute a positive drug test.

- I. The legal right of all personnel to maintain confidentiality in the results of their drug tests shall be observed by all employees. Any employee who breaches the confidentiality of testing information shall be subject to discipline.
- J. A report of positive confirmatory test results shall be submitted in writing by a Medical Review Officer certified AAMRO and MROCC. After review, if still positive, written results will be given to the Fire Chief by the MRO.
- K. Employees who receive a confirmed positive drug or alcohol test in accordance with this Policy for any controlled substance or alcohol may be subject to disciplinary action
- L. Notwithstanding the foregoing, employees who receive a confirmed positive test for alcohol or any drug tested for the illegal use shall be required to successfully complete medical treatment and/or rehabilitation at an accredited facility at the employer's expense (which may include, among other things, the employee's medical insurance when applicable). If during a five year period, a second test results in a positive finding, the employee will be required to successfully complete medical treatment and/or rehabilitation at an accredited facility at the employee's expense (which may include, among other things, the employee's medical insurance when applicable). Upon return to work, for the

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next five (5) year period, the employee will participate in required random testing up to six (6) times per year. During this five (5) year period, if a positive test is incurred, the employee's employment will be terminated.

- M. If there are no positive results in the five year period all results will be maintained separate and not considered in any future decision with regard to the employee.

Section 45.10 Chain of Evidence and Storage

- A. Each step in the collecting and processing of the urine specimens shall be documented to establish procedural integrity and the chain of custody.
- B. Where a positive result is confirmed, urine specimens shall be maintained in secured, refrigerated storage for an indefinite period.

Section 45.11 Drug Test Results

- A. All records pertaining to department required drug testing shall remain confidential, and shall not be provided to other employers or agencies without the written permission of the person whose records are sought, unless otherwise required by law.
- B. Drug test results and records shall be stored and retained in Compliance with state and federal law and applicable retention schedules, or for an indefinite period in a secured area when state law does not apply.

ARTICLE 46 JURY DUTY

Each employee who is called to and reports for jury duty shall be excused from any regularly scheduled workdays for municipal, state, or federal jury service.

Each employee so excused shall be compensated at his/her regular hourly rate less his/her jury pay for days the employee otherwise would have been scheduled to work for the City of Newark and does not work.

If jury service is for a period of time less than each employee's regularly scheduled work day, he/she shall only be excused for that period of the day required for such service, plus reasonable time for travel and changing clothes.

Each employee(s) shall only be entitled to the benefits herein if he/she gives five (5) day prior notice of such jury call and presents proper evidence of the jury duty performed to the Fire Chief.

ARTICLE 47 HEALTH RELATED FITNESS PROGRAM

Should the City implement a health related fitness program, it will be specifically designed for each Firefighter to obtain a level of fitness consistent with the duties he or she may be called to perform. The health related fitness program shall be a positive program and not punitive in design; allow for age and position in the department; allow for on duty time participation utilizing facilities provided or arranged

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by the city; provide for rehabilitation and remedial support for those in need; and be reasonable and equitable to all participants.

If the City implements a health related fitness program, the program shall be developed by a health related fitness committee consisting of: A Local 109 Executive Board Member, two (2) firefighters appointed by the Local President, two (2) officers appointed by the Chief and a representative of the Human Resources Department.

Prior to the implementation of any physical fitness program each participant shall be medically evaluated and certified by the Fire Departments Health Care Provider. Such medical evaluation and certification shall be accordance with NFPA 1582 – Standards on Medical Requirements for Firefighters. Medical evaluations shall be in accordance with State and Federal laws. Any medical evaluation or certification shall be at no cost to the employee.

The Fire Department shall ensure that the results of all medical evaluations and physical performance test shall remain confidential. The Fire Department shall be informed by the evaluating physician only as to whether each Firefighter is certified or not certified.

Section 47.1 **Incentive Program** The City and the IAFF recognize and agree that the maintenance of good health and physical fitness is beneficial for the efficiency and safety of all bargaining unit members. Therefore, a program has been developed that encourages acceptable levels of physical fitness.

The program is voluntary; however, all bargaining unit members are strongly encouraged to actively participate in the program and improve their level of health and fitness.

Section 47.2 **Program Design**

Each bargaining unit member will have one (1) opportunity to participate in the Physical Fitness Testing (PFT) program each year.

Section 47.3 **Physical Fitness Test (PFT)**

The Physical Fitness Test will be administered by Fire Chief or his designee mutually agreed to by the City and the IAFF and will consist of the following phases:

- A. Muscular Endurance (Core Body) – One (1) Minute Sit Up.
On the “Get Ready” command the member assumes the starting position by lying flat on their back with knees bent at forty-five (45) degrees. Feet may be together or up to twelve (12) inches apart, resting on the ground and may be stabilized by a partner holding the ankles with the hands only. The member’s fingers must be interlocked behind the neck or head or the members’ arms may be crossed on their chests. On the “Begin” command, the member starts raising the upper body to the up position with elbow touching knees. The member lowers the body until the upper portion of the back (should blades) touches the mat. The head, hands, arms, and elbows don’t have to touch the ground. The up position is the only authorized rest position. Failing to reach the up position, failing to keep the fingers locked behind the neck or head, arching or bowing the

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back and raising the buttocks off the ground to raise the upper body, or allowing feet to leave the floor will result in incorrect movements. Incorrect movements will not be counted. Each member has sixty (60) seconds to complete as many correct sits as they can. Members will be evaluated in this event in accordance with Chart B.

B. Anaerobic Power (Sprinting Ability) – 300 Meter Run.

At the start, members being tested will line up behind the starting line, on a flat level course. Members are instructed to complete the 300 meter run and to listen to their finish time. On the command “GO”, the timing clock will be started and the members will begin running at their own pace. The Chief’s designee timing the event will begin calling off the time as the members approach the finish line. Each member’s time will be recorded after they pass through the finish line. Members will be evaluated in this event in accordance with Chart C.

C. Muscular Endurance (Upper Body) – Maximum Push Ups.

On the “Get Ready” command, the member will assume the front-leaning rest position (push-up) with the arms straight, elbows locked, hands about shoulder width apart, and palms placed on the floor. The feet may be together or up to twelve (12) inches apart. The body should be essentially straight when viewed from the side, from the shoulders to the ankles. On the “Begin” command, the member starts the push-up by bending the elbows and lowering the entire body until the chest touches the fist of the Chief’s designee (the upper arms should be parallel to the ground at this point). The member returns to the starting position by raising the entire body until the arms are fully extended. The member may rest in the up (elbows locked) position only. The body must remain in a generally straight line and as a single unit for the entire repetition. Failure to keep the body straight or to properly lower the entire body until the chest touches the Chief’s designee fist or allowing any part of the body other than the hands or feet to touch the ground results in disqualification. Incorrect movements will not be counted. Each member has sixty (60) seconds to complete as many push-ups as they can. Members will be evaluated in this event in accordance to Chart D.

D. Aerobic Capacity (Cardio Respiratory) – 1.5 Mile Run

At the start, all members will be lined up behind the starting line, on a flat, level course. Members are instructed to complete the 1.5 mile run and to listen to their finish time. On the command “GO”, the timing clock will be started and the members will begin running at their own pace. The Chief’s designee timing the event will begin calling off the time in minutes and seconds as the members approach the finish line. Each member’s time will be recorded after they pass through the finish line. Members will be evaluated in this event in accordance to Chart E.

Section 47.4 Incentive Program

Members who are rated as Level 1 or Level 2 in every phase of the Physical Fitness Test are eligible to participate in the Incentive Program. The Incentive Program has two (2) components:

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- A. **Compensatory Time Incentive.** Members who are rated as Level 1 or Level 2, in all phases of the PFT will receive incentives as follows:
1. Members who are rated as least Level 1 in all phases of the PFT will receive incentive of five (5) hours of compensatory time added to their compensatory time balance.
 2. Members who are rated at least Level 2 in all phases of the PFT will receive incentive of ten (10) hours of compensatory time added to their compensatory time balance.
 3. Members are eligible to receive only the incentive set forth in (1) or (2), but not both.
 4. Members who qualify will be eligible to receive incentives after 07-01-2004. Members must re-qualify for incentives each year by applying for participation and meeting Level 1 or Level 2 standards in all phases.
- B. **Incentive Recognition Awards.** Members who are rated in Level 1 or Level 2 in all phases of the PFT will be eligible to receive and wear the following awards:
1. Members who are rated at least Level 1 in each phase of the PFT will receive the Physical Fitness Award Uniform Ribbon.
 2. Members who are rated at least Level 2 in each phase of the PFT will receive a Physical Fitness Award Uniform Ribbon with a star, to denote superior fitness levels.
 3. Members receiving the incentive awards set forth in (1) and (2) above shall be eligible to wear awards until the member fails to participate in the program the following year, or fails to meet the Level 1 or Level 2 standards in all phases during the PFT in the following year.

**Chart A
Muscular Endurance (Core Body)
One Minute Sit Ups**

| Level 1 | Level 2 |
|----------|----------|
| 27 to 32 | 33 to 39 |

**Chart B
Anaerobic Power (Sprinting Ability)
300 Meter Run**

| Level 1 | Level 2 |
|--------------------------|------------------------------|
| 60 seconds to 68 seconds | 48.1 seconds to 59.9 seconds |

**CITY OF NEWARK AND FIREFIGHTERS LOCAL 109 BARGAINING UNIT AGREEMENT
JANUARY 1, 2017 THROUGH DECEMBER 31, 2019**

payments. This payout is at the option of the employee and the employee can still opt for a single payout at time of retirement. All payments shall be in accordance with IRS regulations.

ARTICLE 49 **DURATION OF AGREEMENT**

Section 49.1 **Duration** This Agreement shall be effective upon execution, and shall remain in full force and effect through December 31, 2019, unless otherwise terminated as provided herein. Thirty (30) copies of this Agreement shall be made available to the bargaining unit within thirty (30) days of signing thereof with cost to the Employer.

Section 49.2 **Notice of Negotiate** 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 prior to the expiration date, nor later than forty-five (45) calendar days prior to the expiration date of this Agreement. Such notice shall be filed in accordance with SERB rules.

Section 49.3 **Waiver** The parties acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right to make requests 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. Therefore, the Employer and the Union, for the life of this Agreement, each voluntarily and unequivocally waives the right, and each agree that the other shall not bargain collectively or individually with respect to any subject or matter referred to or covered in this Agreement, even though such subjects or matters may not have been within the knowledge of either of both parties at the time they negotiated or signed this Agreement.

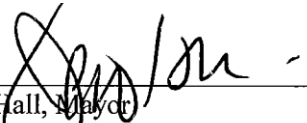
CITY OF NEWARK AND FIREFIGHTERS LOCAL 109 BARGAINING UNIT AGREEMENT
JANUARY 1, 2017 THROUGH DECEMBER 31, 2019

EXECUTION

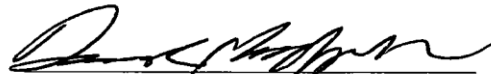
Dated this 23 day of May 2017, at Newark, Ohio.

FOR THE CITY OF NEWARK, OHIO

FOR THE UNION, IAFF LOCAL 109



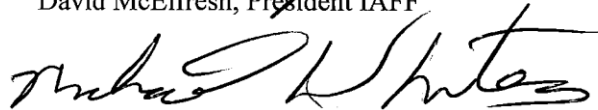
Jeff Hall, Mayor



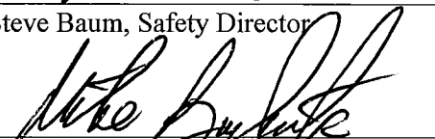
David McElfresh, President IAFF



Steve Baum, Safety Director



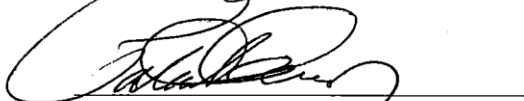
Michael Whiteus, IAFF



Mike Buskirk, Director of HR



Kevin Garwick, IAFF



Patrick Connor, Chief of Fire Division



Neal Murnhy, IAFF

**CITY OF NEWARK AND FIREFIGHTERS LOCAL 109 BARGAINING UNIT AGREEMENT
JANUARY 1, 2017 THROUGH DECEMBER 31, 2019**

| | 2017 | | 2018 | | 2019 | |
|-------------------------------|------------------|--------------------|------------------|--------------------|------------------|--------------------|
| | 1.75% | | 1.75% | | 1.50% | |
| | 40 HOUR | | 40 HOUR | | 40 HOUR | |
| FIREFIGHTERS (40 HOUR) | BASE RATE | Annual Rate | BASE RATE | Annual Rate | BASE RATE | Annual Rate |
| Firefighters 1 - 12 months | 16.6128 | 34,554.62 | 16.9035 | 35,159.33 | 17.1571 | 35,686.72 |
| Firefighters 13 - 24 months | 18.4477 | 38,371.18 | 18.7705 | 39,042.67 | 19.0521 | 39,628.31 |
| Firefighters 25 - 36 months | 20.2826 | 42,187.72 | 20.6375 | 42,926.01 | 20.9471 | 43,569.90 |
| Firefighters 37 - 48 months | 22.1174 | 46,004.27 | 22.5045 | 46,809.34 | 22.8421 | 47,511.48 |
| Firefighters 49 - 60 months | 23.9523 | 49,820.83 | 24.3715 | 50,692.69 | 24.7371 | 51,453.08 |
| Firefighters 61 months plus | 25.8202 | 53,705.94 | 26.2720 | 54,645.79 | 26.6661 | 55,465.48 |
| Lieutenants | 29.0993 | 60,526.59 | 29.6086 | 61,585.81 | 30.0527 | 62,509.59 |
| Captain | 32.7949 | 68,213.47 | 33.3688 | 69,407.21 | 33.8694 | 70,448.31 |
| Assistant Chief | 36.9599 | 76,876.58 | 37.6067 | 78,221.92 | 38.1708 | 79,395.25 |
| | | | | | | |
| | 48 HOUR | | 48 HOUR | | 48 HOUR | |
| FIREFIGHTERS (48 HOUR) | BASE RATE | Annual Rate | BASE RATE | Annual Rate | BASE RATE | Annual Rate |
| Firefighters 1 - 12 months | 13.8440 | 34,554.62 | 14.0863 | 35,159.33 | 14.2976 | 35,686.72 |
| Firefighters 13 - 24 months | 15.3731 | 38,371.18 | 15.6421 | 39,042.67 | 15.8767 | 39,628.31 |
| Firefighters 25 - 36 months | 16.9021 | 42,187.72 | 17.1979 | 42,926.01 | 17.4559 | 43,569.90 |
| Firefighters 37 - 48 months | 18.4312 | 46,004.27 | 18.7537 | 46,809.34 | 19.0350 | 47,511.48 |
| Firefighters 49 - 60 months | 19.9603 | 49,820.83 | 20.3096 | 50,692.69 | 20.6142 | 51,453.08 |
| Firefighters 61 months plus | 21.5168 | 53,705.94 | 21.8933 | 54,645.79 | 22.2217 | 55,465.48 |
| Lieutenants | 24.2494 | 60,526.59 | 24.6738 | 61,585.81 | 25.0439 | 62,509.59 |
| Captain | 27.3291 | 68,213.47 | 27.8074 | 69,407.21 | 28.2245 | 70,448.31 |
| Assistant Chief | 30.7999 | 76,876.58 | 31.3389 | 78,221.92 | 31.8090 | 79,395.25 |
| | | | | | | |