

AGREEMENT
BETWEEN
THE CITY OF FRANKLIN
AND
INTERNATIONAL ASSOCIATION OF
FIRE FIGHTERS, LOCAL 3742

SERB CASE NUMBER
2003-MED-07-0744

Effective
October 12, 2003 through October 11, 2006

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ARTICLE 1
PREAMBLE

The following contract between the City of Franklin, Ohio hereinafter referred to as the City, and Local 3742, International Association of Firefighters hereinafter referred to as the Union, is recorded in written form to meet the requirements set forth in Section 4117.09(A) in the Ohio Collective Bargaining Law.

ARTICLE 2
RECOGNITION

Section 2.01. Bargaining Rights. The City recognizes the Union as the sole and exclusive representative of all employees as hereinafter defined.

Section 2.02. Employees Defined. The term employee or employees as used in this agreement shall refer to full-time paid employees assigned to the following classifications:

1. Firefighters
2. Captains

The Chief and the Assistant Chief position, if filled, shall be excluded from the bargaining unit.

All references to firefighters and officers shall include both genders (male and female); wherever the male gender is used it shall be construed to include male and female employees.

Section 2.03. Subjects for Bargaining. The Union has sole and exclusive bargaining rights under this agreement with respect to those mandatory subjects of bargaining defined under ORC 4117.

Section 2.04. If the City adds new job title(s) in the Fire Division, the Union may request negotiations regarding the inclusion of the new title(s) within the Bargaining Unit. If the City and the Union cannot reach agreement, either may petition the State Employment Relations Board for unit clarification or amendment of certification, whichever is appropriate.

Section 2.05. Successor Agreement: This agreement shall be binding upon any municipal corporation created by a name change to the municipal corporation of the City of Franklin, and no provisions, terms, or obligations herein, contained shall be affected, modified, altered, or changed in any respect whatsoever by the name change.

ARTICLE 3
NONDISCRIMINATION

Section 3.01. Nondiscrimination: the parties agree that their respective policies will not violate the rights nor unlawfully discriminate against any employee covered by this contract because of sex, religion, color, age, national origin, political affiliation, handicap or disability or in the applications or interpretations of the provisions of the Contract.

Section 3.02. Violations of this Article shall proceed to the appropriate legal avenues for allegations of unlawful discrimination; however, the proper use of the Essential Structural Fire-Fighting Functions found in Appendix C of NFPA 1582 (or equivalent) and/or DOL Fire Fighter Occupational Characteristics (or equivalent) is not discrimination and is not subject to the grievance procedure.

ARTICLE 4
MANAGEMENT'S RIGHTS

Section 4.01. IAFF Local 3742 recognizes the right of the City and the Chief of the Fire Division to operate and manage its affairs in all respects, in accordance with its responsibilities and the powers or authorities which the City has not abridged, delegated or modified by this Contract and such powers or authorities are retained by the City.

These management's rights include, but are not limited to the following:

- A. To utilize personnel, method, procedures, and means in the most appropriate ways and efficient manner possible.
- B. To manage and direct the employees of the Fire Division.
- C. To hire, schedule, promote, transfer, assign, train, or retrain employees in the positions within the Fire Division.
- D. To suspend, demote, discharge, or take other appropriate disciplinary action against employees for just cause.
- E. To determine the size and composition of the work force and to lay off employees.
- F. To determine the shift schedules, days and starting and quitting times for the Fire Division.
- G. To determine the mission of the City and the methods and means necessary to efficiently fulfill the mission including: the transfer, alteration, curtailment, or discontinuance of any service; the establishment of acceptable standards of job

performance; the purchase of and utilization of equipment for performance of services.

- H. The City has the right to schedule overtime in the manner most advantageous to the City and consistent with the requirements of municipal employment in public interest.
- I. It is understood by the parties that every incidental duty connected with operations enumerated in job descriptions is not always specifically described. Nevertheless, it is intended that all such duties shall be performed by the employee.
- J. Contracting and Subcontracting: IAFF Local 3742 recognizes the City has statutory rights and obligations in contracting for matters relating to municipal operations. The right of contracting or subcontracting is vested exclusively in the City.
- K. The City retains the right to establish reasonable rules, regulations, and rules of conduct. Rules, regulations, and rules of conduct which are specifically cited by provisions of this Contract may not be changed without negotiations and agreement of the IAFF Local 3742.
- L. The above rights of Management are not inclusive but indicate the type of matter or rights which belong to and are inherent to Management. Any of the rights, powers, or authority the City had prior to the signing of this Contract are retained by the City, except those abridged, delegated, or modified by this Contract.

ARTICLE 5

UNION DUES AND FAIR SHARE FEE

Section 5.01. Checkoff: Any employee who is a member of the Union or who has applied for membership, shall sign and deliver to the Union an original assignment authorizing deductions of membership dues in the Union. Such authorization shall continue in effect from year to year unless revoked or changed in writing. Pursuant to each authorization, the City shall deduct such dues from the salary check of said employee each month. The amounts deducted shall be transmitted within five (5) working days to the Union along with a current roster of employees.

- A. The City shall be relieved from making such individual “check-off” deductions upon employee’s: (1) termination of employment; (2) transfer to a job other than one covered by the bargaining unit; (3) layoff from work; (4) an unpaid leave of absence; or (5) written revocation of the check-off authorization; in accordance with the terms of this Agreement.
- B. The City shall not be obligated to make dues deductions from any employee who, during any dues month involved, shall have failed to receive sufficient wages to make all legally required deductions in addition to the deduction of Union dues.

Section 5.02. Fair Share Provision: In lieu of becoming a union member, an employee shall, within thirty (30) days from date of employment, make fair share payments in lieu of dues to the Union. Such payment of Fair Share shall not exceed one hundred percent (100%) of the amount of the IAFF dues for members. This section shall be referred to as the “Fair Share Agreement” and the employer shall deduct from the first paycheck of each employee, each month, the payments required by this section and shall remit the same to the Union within five (5) working days after this posting of the payroll. No non-member filing a timely demand shall be required to subsidize partisan political or ideological causes, or any other endeavors not germane to the IAFF’s work in the realm of collective bargaining and contract administration.

Section 5.03. Bona Fide Religious Exemption: Any employee who is a member of a church or religious body having bona fide religious tenets or teachings which prohibit association with a labor organization or the payment of dues to it, shall pay an amount of money equivalent to regular Union dues to a non-religious charity or to another charitable organization mutually agreed upon by the employee affected and a representative of the labor organization to which such employee would otherwise be required to pay dues. The employer shall deduct from the first paycheck of each employee claiming the exemption, each month, the payments required by this section and shall remit the same to the applicable non-religious charity or charitable organization.

Section 5.04. The IAFF represents to the City that an internal rebate procedure has been established in accordance with Section 4117.09(C) of the Ohio Revised Code.

Section 5.05. Indemnification of the Employer: The IAFF shall defend, indemnify and hold harmless the City, the City Council, and the City Manager, the Fire Chief, and any and all other officers and employees of the City against any and all claims and/or costs arising from or in any way related to the implementation and enforcement of this Article, specifically including, but not limited to, any cost arising from any action in any court or administrative agency alleging that the IAFF’s internal rebate procedure is legally defective.

Section 5.06. The parties agree that neither the employee(s) 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 sixty (60) days after the date the Employer forwards the deductions to the Union. If it is found that an error was made, it will be corrected at the next pay period that the Union dues deduction would normally be made by deducting the proper amount.

ARTICLE 6 **SENIORITY**

Section 6.01. Definition. Seniority shall be defined as the length of continuous service measured in years, months, and days that an employee has accumulated as a full-time employee in service of the City of Franklin Fire Dept.

Section 6.02. Accrual.

- 1) An employee's seniority shall commence after the completion of the probationary period and shall be retroactive to the first day the employee reported for work.
- 2) Seniority shall accrue during a continuous authorized leave of absence without pay up to six (6) months or for the period of an approved maternity leave, provided that the employee returns to work immediately following the expiration of such leave of absence or maternity leave; and during a period of continuous layoff not to exceed six (6) months, if the employee is recalled into employment; and during a sick leave of up to twelve (12) months.
- 3) Loss of Seniority. An employee's seniority shall be lost and employment terminated when he or she:
 - a). Terminates voluntarily
 - b). Is discharged for just cause or involuntary separation
 - c). Layoff and expiration of recall rights
 - d). Failure to return to work at the expiration of a leave of absence

Section 6.03. The Chief shall establish seniority lists both by date of original appointment and by date of promotion. These lists shall be updated each November 1st and posted on station bulletin boards by the 15th. They shall remain for a period of thirty (30) days and may be challenged during that period. Thereafter, they shall remain unchanged until the next November. A copy of the list shall be distributed to the Union Secretary on the date of posting.

Section 6.04. Seniority shall govern the dispensing of all privileges provided by and governed by seniority in this agreement.

ARTICLE 7 **LAYOFF/RECALL**

Section 7.01. Layoff: In the event the City should decide to layoff Fire Division personnel, the employee(s) with the least seniority in the layoff classification shall be laid off first in accordance with City of Franklin Civil Service Rules. Seniority for the purpose of this

section, shall be the total time of current continuous service within the bargaining unit. In the event an employee is laid off, he shall receive payment for earned but unused vacation, sick leave conversion, and uniform allowance with his termination pay.

Section 7.02. Recall: Employees who are on lay-off shall be placed on a recall list for a period of two (2) years and shall be recalled in reverse order of their layoff with the last employee laid off being the first to be called back and continuing in a like manner until the required number of employees had been obtained, provided they are qualified to perform the work to which they are recalled.

Section 7.03. Recall Notification: No new employees shall be hired until all employees who have been laid off in the previous two (2) years have been given the opportunity to return to work. Laid off employees will be notified by registered mail at their last known address to return to work within twenty-one (21) calendar days. Failure to report within the time limit removes them from the recall list.

Section 7.04. Layoff/Recall Termination: An employee who is on layoff for a period of two (2) years is automatically terminated and loses all seniority.

ARTICLE 8

PERSONNEL RECORDS

Section 8.01. Each employee within the Fire Division shall, upon request, be permitted reasonable access to his personnel records, copies of all injury report forms, and Workers' Compensation forms pertaining to his own employment, provided that this access does not interfere with the discharge of his or her duty or the duties of the Personnel Department. The employee will be granted one (1) copy of the employee's individual personnel file documents. Thereafter, on subsequent requests, the employee shall pay no more than twenty-five cents (\$.25) per page for the additional copies.

Section 8.02. If an employee feels that any material in either his Fire Division personnel file or his City personnel file is untrue and/or derogatory he may answer or respond to such material in writing and such answer or response will be made part of those files. Should an employee leave the employment of the City and sign a waiver of information for any future employer, the information that is released shall include the employee's response to any material that he deemed untrue and/or derogatory.

Section 8.03. For the sole purpose of discipline, grievance and the arbitration procedure, oral reprimands shall be removed from the employees file after a period of twelve (12) months, medical notices requiring doctor's certificates will be removed for such purposes after twelve (12) months, written reprimands not concerning monetary loss shall be removed for such purposes after twelve (12) months, provided that in each of the above the employee has not had any intervening discipline. Refer to Section 20.14 for additional guidance on this subject.

Section 8.04. Copies of any commendations and/or awards will be a permanent part of the file and the employee shall be given a copy of the same. It shall be the responsibility of the employee who wishes an award or official commendation to be placed in his file to provide a copy to the Chief's office and the Personnel Department file.

Section 8.05. The contents of personnel files shall be prescribed by the City, and retention of items shall be determined by State and Federal law and as set forth in the retention schedule. Further, all items defined by the Ohio Revised Code or caselaw as public information shall be available to the public from an employee's personnel file.

ARTICLE 9 **SICK LEAVE**

Section 9.01. Regular full-time tour employees shall be entitled to sick leave of twenty-nine (29) hours with pay for each completed month of service. Regular full-time non-tour employee (40 hour employees) shall be entitled to ten (10) hours with pay for each completed month of service. Sick leave shall be used for the purposes as prescribed in the ORC 124.38.

Section 9.02. For persons employed by the Division of Fire on a full-time basis, upon death, exhaustion of recall rights under Article 7 (Layoff/Recall), or age and service retirement under the Police and Fire Pension Fund (PFPF), every eligible employee shall receive full payment of up to one hundred fifty (150) days unused sick leave accumulated (one hundred fifty [150] eight [8] hour days) or in other words, a maximum cash out of one thousand two hundred (1200) hours. Except for dismissal, if an employee terminates employment with the City for reasons other than death or retirement, he shall be paid one (1) day's pay for every two (2) day's accumulated sick leave for a maximum cash out of six hundred (600) hours. The payout referenced in the sentence above also applies to an employee who has exhausted reinstatement rights under Disability Benefits of the PFPF.

Section 9.03. In any one year, sick leave credits may be converted to cash under the following schedule:

A. <u>Sick Leave Credits</u>	<u>Trade</u>
over 30 days	3 for 1
over 66 days	2 for 1
over 90 days	1¼ for 1
over 150 days	1 for 1

- B. Cash conversion is to be paid by the last day in January for the previous calendar year.
- C. Conversion must be requested by the first seven (7) days in January. If not requested it will be accumulated.
- D. All accumulation in excess of one hundred fifty (150) days must be converted.
- E. For purposes of payment of unused accumulated sick leave, a day shall be defined as eight (8) hours.

Section 9.04. Policy for taking sick leave while on vacation: An employee who is on approved vacation leave, who becomes ill, may apply for payment of sick leave for the period of illness. A written request should be filed with the Fire Chief within five (5) working days after returning to work. Approval shall be granted at the discretion of the Fire Chief with the concurrence of the City Manager.

Section 9.05. Approval of Usage: The Fire Chief or other authorized official designated by the Fire Chief has the authority as provided by the City Manager to approve or deny the use of sick leave. Sick leave shall not be approved for unauthorized uses. An employee may be required to submit a doctor's certificate whenever the Chief of the Fire Division suspects that there has been abuse by the employee in his use of sick leave or to substantiate periods in excess of one (1) tour or three (3) days for forty (40) hour employees. The Employer reserves the right to investigate all sick leave cases when deemed necessary.

Section 9.06. Employee's Claim for Sick Leave: The employee shall submit a Sick Leave Form in order to receive payment under the sick leave provisions. For extended absences payments may be approved at the discretion of the Fire Chief prior to submission of this form. This Form must be completed upon return of the employee to work. Failure to complete the form shall result in the employee being determined to be on leave without pay and a deduction in the subsequent payroll period will be made. The Division of Fire should attach this form to the payroll voucher.

Section 9.07. Contributing Sick Credits to Another Employee: Any City employee whose salary or compensation is fixed by City Council and who is entitled to accumulate sick leave credits may, if he so desires, contribute up to ten (10) sick leave credits in any one (1) year to the account of any City employee who is afflicted by a continuing illness, and has exhausted the sick leave credits, vacation, compensatory, and personal leave.

ARTICLE 10 **INJURY LEAVE**

Section 10.01. In addition to sick leave as provided in this agreement an employee shall receive injury leave for any injury received within the scope of their employment.

- A. In the event an employee is physically injured or suffers an illness in the discharge or performance of his official duties, with the exception of gross negligence or intentional self-injury, and is unable to perform either his regular assigned duties or those duties assigned by the Chief of the Fire Division or such light duty work as allowed by the employee's treating physician and approved by the Employer as in its best interest, such employee may receive as injury leave compensation his regular base pay for the first sixty (60) consecutive calendar days because of and immediately following the on-the-job injury or illness. Provided, however at the time of the injury and in no event later than one (1) day following the occurrence that gave rise to the injury, the employee notifies an appropriate supervisor of the injury and, unless hospitalized, within three (3) days of the occurrence, provides the employer a physician's statement stating the nature of the injury, limitations on the employee's ability to work, and, an expected date of return to work. At the end of the first sixty (60) consecutive calendar days, if in the opinion of the employee's physician the employee is still unable to return to work, the City Manager, in his sole discretion, may grant an additional sixty (60) consecutive calendar days of injury leave in unusual or extraordinary circumstances. The injury leave under this section shall be used before using the accumulation authorized by Ohio R.C. 124.38; it is also fully paid by the Employer and is in lieu of Workers' Compensation. An employee who applies for injury leave will apply to the Bureau of Workers' Compensation (BWC) for medical benefits only and not lost income benefits.
- B. If an employee is hospitalized immediately following the injury, he shall submit the physician statement within three (3) days after his dismissal from the hospital to the employer.
- C. If an employee does not notify the employer, as provided above, the first five (5) tours of duty off work because of the on-the-job injury shall be charged as sick leave.
- D. If an employee sustains an on the job re-injury or aggravation of prior on-the-job injury, the first five (5) tours of duty off work because of the re-injury shall be charged as sick leave, unless the employee is hospitalized as a result of the re-injury or aggravation.
- E. Should an employee fail to report the on-the-job injury to the appropriate supervisor within three (3) calendar days of the on-the-job injury, the leave time will not qualify to be granted as injury leave, but rather as sick leave, and will be deducted from the employee's accumulated sick leave accordingly.

Section 10.02. No injury leave will be granted any employee who is off work because of the following:

- A. Any medical condition that existed prior to the employee's original hire date, including an aggravation or re-injury, on or off the job, of any such pre-existing condition.

- B. Any medical condition that results from an off-the-job injury, including an aggravation or re-injury of any such condition.

Section 10.03. An employee who is injured and unable to perform his regularly assigned duties, may be assigned by the Chief of the Division to perform duties not requiring great physical exertion in lieu of injury leave compensation, with the approval of the employee's physician or the employer's physician as set forth in Section 10.04 below.

Section 10.04.

- A. An employee claiming the right to receive, or who is receiving injury leave compensation, may be required by the employer from time to time to submit himself for medical examination by a licensed physician, selected by the employer. The employer will pay any legitimate cost for examination that the employee's medical insurance or Worker's Compensation does not cover, including travel expenses. If the employee refuses to submit to medical examination, injury leave compensation may be suspended or denied.
- B. If the report from the physician selected by the City is in conflict with the report submitted by the employee's physician regarding the nature of the injury, limitations on the employee's ability to work, or the expected date of return to work, the employee shall be examined by a third physician. The examination costs of the third physician shall be submitted to the applicable insurance company, and any amount not paid by the insurance company shall be split equally between the Employer and the Union. The third physician shall be selected by the Employer from a list submitted by the Academy of Medicine of Greater Cincinnati. The opinion of said third physician shall be determinative.

Section 10.05. If an employee returns to work following an on-the-job injury for which he received less than full injury leave benefits provided herein and within five (5) tours from the date of his return, the employee's physician or the employer's physician as set forth in Section 10.04, above, determines that the employee, because of the injury, is unable to perform those duties the employee has been assigned following the injury, the employee will be entitled to the balance of the injury leave, subject to the conditions set forth herein.

Section 10.06. If an employee incurs a cardiovascular, pulmonary or respiratory disease, following immediate exposure to heat, smoke, toxic gasses, chemical fumes or other toxic substances such conditions caused or induced by the cumulative effect of exposure to heat or the inhalation of smoke, toxic gases, chemical fumes or other toxic substances, there shall be the presumption that such cardiovascular, pulmonary, or respiratory disease is a job incurred injury, for the purposes of this section. Such presumption may be refuted by affirmative evidence that the condition is caused or substantially caused by other factors, not related to employment.

Section 10.07. Any falsification of any record shall result in disciplinary action, up to and including discharge.

ARTICLE 11 **SPECIAL LEAVE**

Section 11.01. Each employee shall be granted special leave with pay for any day or days which he is able to secure another employee who will work in his place without pay provided:

- A. A substitution should be granted with the approval of the employee's immediate supervisor.
- B. Notice of substitution shall be made by the employee regularly scheduled for the tour prior to the commencement of the tour for which the substitution is to be effective, except cases of emergency when such notification can be made by phone. The shift commander shall be notified by the approving supervisor of all duty trades within the firefighter rank prior to the commencement of the tour.

Section 11.02. The trading time mentioned above must be in accordance with FLSA and 29 C.F.R. 553.31.

ARTICLE 12 **FUNERAL LEAVE**

Section 12.01. Any regular full-time bargaining unit employee shall be granted usage of funeral leave, upon approval of the Fire Chief, for a maximum of twenty-four (24) paid hours (including tour employees and non-tour employees who work eight [8] hours per day) or thirty (30) paid hours for non-tour employees working ten (10) hour days, in the event of a death of an immediate family member if the funeral is within two hundred (200) miles of the City of Franklin. If the funeral is more than two hundred (200) miles from the City of Franklin, a non-tour employee will be granted funeral leave not to exceed forty (40) hours with pay; a tour employee will be granted funeral leave not to exceed forty-eight (48) hours with pay in such instance. For purposes of this policy, the "immediate family" is defined as mother, father, brother, sister, child (including step-child), spouse, grandparent, mother-in-law, father-in-law, daughter-in-law, son-in-law, sister-in-law, brother-in-law, grandmother-in-law, grandfather-in-law, legal guardian or other person who stands in the place of the employee's parent, or any related person having established permanent residence in the employee's household.

Section 12.02. Funeral leave may be used to attend the funeral, make funeral arrangements or attend to other matters directly related to the funeral. Funeral leave shall not be granted for any days following the date of the funeral unless such time is approved by the Fire Chief.

Section 12.03. Any requests for funeral leave must be requested in accordance with any Notification of Absence policy maintained by the Department.

Section 12.04. Funeral leave may be extended by using sick leave, with the approval of the Fire Chief.

ARTICLE 13 **AUTHORIZED LEAVE**

Section 13.01. Military leave will be granted according to state and/or federal law.

Section 13.02. Leave of Absence with Pay

A. Purpose: Leaves of absence with pay may be granted for any legitimate reason including, but not limited to the following, provided such absence has been approved in advance by the proper authority as outlined below.

1. For military preinduction examinations.
2. When called to serve on a jury. The compensation the employee receives for serving on a jury shall be turned over to the City.
3. When subpoenaed as a witness in a court case related to the employee's employment.
4. To attend meetings, conventions, conferences, or short courses of instruction which benefit the City as approved by and in the sole discretion of the Chief of the Fire Division or his designee.

B. Procedure: A unit employee desiring to apply for a leave of absence should submit his application to his immediate supervisor, outlining briefly the necessity for such a leave. The supervisor will transmit the request to the Chief of Fire along with his comments. Further disposition will be made as follows:

1. Request for leave of Five (5) Days (two [2] tours for twenty-four [24] hr. personnel, or five [5] days for eight [8] hr. personnel) or less. The Chief of Fire will acts on such a request, when funds are budgeted.
2. Request for more than Five (5) Days (or two [2] tours for twenty-four [24] hr. personnel, or five [5] days for eight [8] hr. personnel), or other purpose. Request for leave of more than five (5) days duration, will be forwarded to the City Manager by the Chief of Fire along with his recommendations.

- C. Conditions: All such leaves will be given in writing with a copy directed to the Personnel Manager. The length and other conditions of each leave granted will be determined by the facts and circumstances of the case.

Section 13.03. Leave of Absence Without Pay.

- A. Purpose: Leave of absence without pay may be granted for any legitimate purpose subject to approval, including but not limited to the following:
1. To further a unit employee's education. (Ordinarily such a leave will be granted only if the leave will directly benefit the City as well as the individual, and provided the unit employee agrees to return to City employment for a specified period of time after such leave).
 2. To attend funerals not covered by paid leave.
 3. To care for a member of the immediate family in case of extended illness or injury in circumstances not covered by sick leave, or family medical leave.
 4. Illness not covered by sick leave.

Nothing in this agreement shall be construed to prevent or impede, the Employer's compliance with the Americans with Disabilities Act (ADA), or to prevent or impede the Employer from implementing any choice, selection, or option available to it under the ADA or the FMLA.

- B. Procedure. A unit employee desiring to apply for a leave of absence without pay should submit an application to his immediate supervisor, outlining the reason for the request. The supervisor will transmit the request to the Chief of Fire along with his comments. Further disposition will be made as follows:
1. Request for leave of Five (5) Days (two [2] tours for twenty-four [24] hr. personnel and five [5] days for eight [8] hr. personnel) or less. The Chief of Fire will act on such a request.
 2. Request for more than Five (5) Days (two [2] tours for twenty-four [24] hr. personnel and five [5] days for eight [8] hr. personnel), or other purpose. Request for leave of more than five (5) days duration will be forwarded to the City Manager by the Chief of Fire along with his recommendations.
- C. Conditions. All such leaves shall be given in writing with a copy directed to the Personnel Manager and other conditions of each leave granted will be determined by the facts and circumstances of the case. All fringe benefits cease while a employee is on leave without pay after such leave exceeds two (2) weeks. Fringe benefits include, but are not limited to, sick leave, vacation, annual pay increases, insurance, and

holidays. The unit employee may continue his health insurance coverage at his own expense.

- D. Duration. The City may grant an unpaid leave of absence for a duration of six (6) months. The authorization of a leave of absence without pay is a matter of administrative discretion, and employees have no right to such leave.

Section 13.04. Disability Leave of Absence

- A. A unit employee incurring any disability not duty connected, after he has exhausted all of his paid leave to which he is entitled, will be entitled to a leave without pay for a period not to exceed six (6) months, subject to the following provisions.
1. The unit employee shall apply for such leave, in writing, to the Chief of the Fire Division for his approval.
 2. The unit employee shall submit a physician's report, including a statement regarding the nature of the disability and whether or not the employee is able to work or not.
 3. The unit employee shall submit to the Chief of Fire a physician's statement of release for work before returning to work, at which time the employer may require such employee to be examined by a city physician. If the employee's and the employer's physicians opinions conflict, a third physician shall be selected by the City whose decision shall be final.

ARTICLE 14 **SAFETY AND HEALTH**

Section 14.01. The City and the Union shall cooperate fully to maintain the highest possible standard of safety and health in the Fire Division in order to eliminate as much as possible accidents, deaths, injuries, and illness in the Fire Division.

Section 14.02. The company officer shall have discretion to remove apparatus from service if in his opinion the mechanical condition of the apparatus warrants removal pending an inspection by a command officer. The final decision and responsibility as to the serviceability of a piece of equipment will rest with the Chief of the Division.

Section 14.03. The City will agree that blood tests for carbon monoxide poisoning will be provided upon request for any firefighter treated in a hospital for inhalation of an irrespirable atmosphere and the firefighter will be given a report of the test upon request. The City will pay any legitimate cost for blood tests not covered by medical insurance or Workers' Compensation.

Section 14.04. The Chief of the Fire Division will determine the types, quality and quantity of all equipment issued for use in the Division.

Section 14.05. There shall be one (1) member from the Fire Division appointed to the city-wide Safety Committee, if it is in existence. If the City decides to permanently abolish the City-wide Safety Committee, it shall notify the Union of such decision.

Section 14.06. The City will continue to furnish safety apparel and equipment consistent with the National Fire Protection Association recommendations and Ohio Industrial Commission Standards. Each Full-time Employee will maintain two (2) complete sets of turnout gear.

Section 14.07. The City will provide, upon request by any member of the Division of Fire, an inoculation for prevention of Hepatitis, Type B, and annual flu shot.

Section 14.08. Damaged safety equipment and apparel shall be ordered or repaired within five (5) business days of notification of needed replacement. The Chief or his designee will determine if the equipment and/or apparel is damaged.

Section 14.09. The City will provide upon request, within a reasonable time, a test for any employee that the City determines has been exposed to a serious infectious disease, such as AIDS, meningitis, etc., while performing his duties. The City will pay any legitimate cost for the test not covered by medical insurance or Workers' Compensation, as well as reasonable travel expense.

Section 14.10. Costs for Infectious Disease Exposure: In the event an employee has been injured or exposed to a toxic substance or to an infectious disease in the course or scope of his or her employment, and is sent to the hospital for testing, treatment, and/or preventive measure he or she shall submit such bills to his or her insurance company for payment. If Workers' Compensation subsequently determines that there was no injury sustained and that it will not cover out of pocket expenses paid by the employee, the City will assume all payments paid by the employee which were not covered by his or her insurance carrier.

ARTICLE 15
HOURS OF WORK

Section 15.01. IAFF Local 3742 realizes that scheduling is a management right according to ORC 4117.08, however, the City agrees that before any changes in the current system can occur, a sixty (60) day notice will be provided to the Union, except for the situations that may occur which are covered in Section 15.03 and 15.04.

Section 15.02. Tour Employees: The hours of work for tour employees total approximately fifty-six (56) hours per week. The work week for tour employees shall include Saturday and Sunday working hours in the interest of public health, safety and welfare.

Section 15.03. Non-Tour Employees: The work week for non-tour employees will consist of forty (40) hours. The Employer may set eight (8) or ten (10) hour work days for non-tour employees; however, the Employer retains the right to schedule and assign workers to specific schedules and hours of work based on work load requirements, availability of supervision and staff shortages regardless of whether such shortages are the result of sick leave, vacation, and/or vacancies subject to the limitations in this article and the labor agreement. The Employer shall allow the use of flex-time for non-tour employees, contingent upon the approval of the Fire Chief, whereby an employee may request to flex his or her normal working schedule. Such flex time is not mandatory. The Employer may not begin a non-tour shift earlier than 6:00 a.m. or end a non-tour shift any later than 6:00 p.m. (except for individual cases of flex time). If the Employer determines to modify the start time of non-tour employees, it must provide at least seven (7) calendar days notice before implementing the change. Further, if the Employer determines to modify non-tour shifts from five (5) eight (8) hour days to four (4) ten (10) hour days, or vice versa, the Employer will provide at least thirty (30) calendar days notice before implementing the change.

Section 15.04. Notwithstanding the language in Section 15.03, the Employer and the Union may mutually agree in writing to alternative notice periods and alternative beginning and ending times.

ARTICLE 16
REPORTING FOR DUTY

Section 16.01. Each tour employee shall report for duty and be in uniform no later than 0700 hours or such other time as designated by the Chief of the Fire Division.

ARTICLE 17
REPORTING OFF DUTY

Section 17.01. An employee must notify the shift supervisor and the officer in charge at headquarters at least thirty (30) minutes prior to the time he/she is scheduled for duty.

ARTICLE 18
OFF-DUTY FIRE RUNS

Section 18.01. Call-Out: Off-duty employees called back to duty which does not abut his or her scheduled working shift shall be compensated at the rate of two (2) hours at one and one-half (1½) times his or her regular hourly rate of pay. To be eligible for call-out pay, an off-duty employee must respond within thirty (30) minutes of being called back. Off-duty employees that respond after thirty (30) minutes of being called back shall be compensated in quarter (.25) hour increments at the overtime rate of one and one-half (1½) times their hourly rate for the actual time worked.

If the off duty fire run should last more than two (2) hours, tour employees shall be compensated at the overtime rate in quarter (.25) hour increments. Forty (40) hour employees who respond to an off-duty fire run in excess of two (2) hours shall receive a rate of pay as if they were tour employees (24/48) (by converting the forty [40] hour employee's salary into an hourly wage by dividing by 2912 and multiplying by 1.5).

For purposes of this article, any additional run which comes within the initial two (2) hour fire run shall be considered part of that initial run, not an additional run, and no additional two (2) hour minimum will be paid for such time. Further, any additional run which occurs after the initial two (2) hour period while the employees are still out on the off-duty run shall be paid at actual time multiplied at one and one-half (1½) times his or her regular rate of pay as described above. For purposes of this section, the fire run is completed only when roll call is taken upon return to station.

Section 18.02. Holdover: On-duty employees who initially respond to a call, in which the call runs past their scheduled shift, shall not be eligible for call-out pay. Employees who are required to be on duty for an extended time beyond the scheduled shift shall be compensated in quarter (.25) hour increments at the rate of one and one-half (1½) times their hourly rate of pay. If an employee is on an incident due to holdover, incident command will make very effort to have that employee released as soon as possible at his or her request in a timely manner.

Section 18.03. Employees shall respond to off-duty runs as directed by, and in the sole discretion of, the Chief of the Fire Division.

Section 18.04. The time worked as off-duty fire runs shall not be included in employee's total hours on overtime list.

Section 18.05. The current run list shall be determined by the Fire Chief. Bargaining unit employees may respond to alarms when off duty where multiple pieces of equipment are dispatched, mutual aid calls, and station recalls. If the Fire Chief decides to modify the run list, he will provide the Union with at least thirty (30) days notice.

ARTICLE 19

VACANCIES AND PROMOTIONS

Section 19.01. The parties agree that all appointments to the position of Fire Fighter shall be from eligibility lists as requested by the Fire Chief, and in accordance with applicable law.

Section 19.02. The Employer has the power to declare a vacancy. Nothing in this Article shall be construed to limit or prevent the Employer from temporarily filling a vacant position pending the Employer's determination to fill the vacancy on a permanent basis. Additionally, nothing in this Article shall be construed to require the Employer to fill a vacant position.

Section 19.03. A fire fighter must serve in the lower rank a minimum of twenty-four (24) months before becoming eligible to take a promotional exam. Promotions shall be made in accordance with local civil service rules, but subject to Section 19.01 and 19.02. Nothing in this Article shall be construed to limit or prevent the Employer from hiring an individual that is not currently in the bargaining unit to fill a vacant position or assume the rank of a newly created position not within the bargaining unit.

ARTICLE 20

GRIEVANCE PROCEDURE

Section 20.01. A grievance is defined as a specific violation of a term of this Contract, or disciplinary action taken against an employee. Each written grievance must state the facts upon which the grievance arose, the Article of the contract where the violation has occurred and the remedy requested to settle the grievance.

Section 20.02. Any step in the grievance procedure outlined below may be waived on any grievance by mutual written consent of the parties. In the absence of such mutual consent, at any step where a response is not forthcoming within the specified time limits, the grievance will be presumed to have been denied. In such a case, the grievant must present his grievance to the next step in the grievance procedure in order to obtain further consideration. A copy of all grievances and responses will be forwarded to the Personnel Manager and the Local President of the IAFF.

Step 1. The employee (or group of employees in a class action) shall present the grievance in writing to his or their immediate supervisor for disposition. This submission must be done

within five (5) calendar days (excluding Saturday, Sunday, and City recognized holidays) following the date of occurrence or when the employee or the Union should have had knowledge of the occurrence of the facts upon which the grievance is based. The grievant(s) may, if he or they so desire, be accompanied by a member of the Grievance Committee at this step.

The immediate supervisor shall reply in writing to the aggrieved within five (5) calendar days (excluding Saturday, Sunday, and City recognized holidays). If the aggrieved employee or employees do not refer the grievance to the second step of the procedure within five (5) calendar days (excluding Saturday, Sunday, and City recognized holidays) after receipt of the decision rendered in this step, it shall be considered to be satisfactorily resolved. If the aggrieved party is not satisfied with the answer at Step 1, the party must submit the grievance to Step 2 of the procedure within five (5) calendar days (excluding Saturday, Sunday, and City recognized holidays).

Step 2. The grievance, together with all correspondence, shall be submitted to the Chief. The Chief shall investigate and hold a grievance meeting within five (5) calendar days (excluding Saturday, Sunday, and City recognized holidays) after receipt of the grievance. The Chief shall give his answer to the Union and the aggrieved in writing within five (5) calendar days (excluding Saturday, Sunday, and City recognized holidays) after termination of such grievance meeting. Both the Union and/or its representatives and Management shall have the right to call such witnesses as are necessary to the investigation and explanation of the grievance. The aggrieved may be represented by a member of the Grievance Committee.

Step 3. The grievance shall be presented to the City Manager or his designee no later than five (5) calendar days after the receipt of an unacceptable decision rendered at Step 2, or within five (5) calendar days after the five (5) calendar day period in which the response is due. If the grievance is not so presented, it will not be further considered. A meeting shall be scheduled within five (5) calendar days after the filing of the grievance at Step 3. The decision of the City Manager or his designee shall be given within five (5) calendar days of said meeting. If the aggrieved employee does not notify the City Manager or his designee through the President of the IAFF of his dissatisfaction with the decision rendered, the grievance shall be considered resolved. If the City Manager or his designee fails to answer in writing within five (5) calendar day time period the grievance will be presumed to have been denied.

Step 4. Failure to resolve any grievance processed through Step 3 will result in the grievance being referred to an Arbitrator, provided written notice for the same is made by the IAFF President within five (5) calendar days after the receipt of the decision of the City Manager or his designee, or after the five (5) calendar day period in which the decision is due. In the event that the IAFF President or his designee should fail to serve such written notice on the agency from which the Arbitrator is to be provided and the City Manager or his designee, the grievance shall be considered settled. The arbitrator shall be chosen from a listing of nine (9) arbitrators, requested by the IAFF and/or the City, and provided by the American Arbitration Association. The parties shall alternately strike the names of the arbitrators until only one

arbitrator remains. Either party may once reject the list and request an additional listing of nine (9) arbitrators until a mutually agreeable arbitrator is selected.

Section 20.03. The parties understand and agree that in making this Contract they have received for its term all bargaining issues which were or which could have been made the subject of discussion. The arbitral forum here established is intended to resolve disputes between the parties only over the interpretation or application of the matters which are specifically covered in this Contract and which are not excluded from arbitration.

Section 20.04. The arbitrator shall have no power to add to or subtract from or modify any terms of this Contract or addendum to this Contract nor to rule on any matter except while this Contract is in full force and effect between the parties. In the event a case is appealed to an arbitrator and he finds that he has no power to rule on such case, the grievance will be denied.

Section 20.05. The award of the arbitrator shall be based exclusively on evidence presented at the arbitration hearing as well as the post-hearing briefs, the collective bargaining agreement, and applicable law.

Section 20.06. Any fees relating to arbitration shall be split between the Local and the City on a 50%/50% basis.

Section 20.07. The Arbitrator's decision shall be final and binding on the IAFF, on all Bargaining Unit Employees, and on the City.

Section 20.08. IAFF representation at steps one (1) and two (2) of the grievance procedure shall be limited to the designated representative and the aggrieved employee. The IAFF President and/or Legal Counsel may accompany the grievant and the designated representative at Steps three (3) and four (4). By mutual agreement, additional persons may be designated to attend.

Section 20.09. Decisions made at any level below that of the Chief shall not be interpreted as setting a precedent, and the Chief reserves the right to take official action without prejudice, based on his own findings in each grievance.

Section 20.10. The City is authorized to pay grievance settlements.

Section 20.11. By mutual written agreement of the parties, time limits as set forth in the grievance procedure may be extended.

Section 20.12. Class grievances may be initiated by IAFF Local 3742 at Step 3 of the grievance procedure, subject to the filing time limits of Step 1.

Section 20.13. The grievance form will be subject to approval by both the IAFF and the City.

Section 20.14. Disciplinary actions of verbal reprimand (time and date recorded) and written reprimand may be appealed through the grievance procedure, but not the arbitration procedure. An employee shall have the opportunity to submit a written response to the reprimand in his or her personnel file. This disciplinary response shall be maintained in the file for as long as the disciplinary action is active, under Section 8.03.

ARTICLE 21 **DISCIPLINE**

Section 21.01. Any employee may be disciplined for incompetence, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, neglect of duty, conviction of criminal charges, misfeasance, malfeasance, nonfeasance, discourteous treatment of the public, failure to pay just debts, violation of the rules of the Civil Service Commission, violation of the Administrative Regulations of the City, violation of the Division of Fire Rules, Regulations, general or special orders, falsification, and any other failure of good behavior, or an accumulation of minor infractions.

Section 21.02. Possible disciplinary actions are as follows:

Oral reprimand, written reprimand, suspension with or without pay, reduction of pay, demotion to lower classification, dismissal.

Section 21.03.

- A. No employee shall be demoted or dismissed without the Chief first meeting with the employee. In special cases, the employee may be suspended pending a meeting, but such meeting must be held promptly. On suspension, the suspended employee may request a hearing to be held by the close of the next succeeding workday. The Union President or Steward shall have the right to attend such meeting subject to the disciplined employee's desires. Any such meeting shall, at the request of the employee, be continued to permit his Steward or Union President's attendance.
- B. Prior to a suspension without pay, reduction, demotion, or dismissal, the Employer will provide a pre-disciplinary conference.
 - 1. A pre-disciplinary conference will be scheduled to give the employee an opportunity to offer an explanation of the alleged misconduct. The pre-disciplinary conference will be conducted by the City Manager or his designated hearing officer. Not less than forty-eight (48) hours prior to the scheduled starting time of the disciplinary conference, the employer will provide to the employee a written outline of the charges that may be the basis for disciplinary action. The employee may choose to:

- a. Appear at the conference to present an oral or written statement in his defense.
 - b. Appear at the conference and have a chosen representative present an oral statement in defense of the employee.
 - c. Elect to waive (in writing) the opportunity to have a pre-disciplinary conference.
2. The employee must elect to exercise in writing, the options listed above, concerning a pre-disciplinary conference. An employee may elect to waive any or all of his rights concerning disciplinary procedures, but it must be in writing.
 3. At the pre-disciplinary conference, the employee may present any testimony, witnesses, or documents which explain whether or not the alleged misconduct occurred. The employee has a right to have with him two (2) representatives of his choosing. The employee shall provide a list of witnesses to the City Manager or his designated hearing officer as far in advance as possible, but no later than one (1) hour prior to the pre-disciplinary conference. It is the employee's responsibility to notify his witnesses that he desires their attendance at the pre-disciplinary conference.
 4. The employee will be permitted to cross-examine any witnesses presented by the Employer; however, the Employer is under no obligation to present witnesses. A written report will be prepared by the City Manager or hearing officer which will contain a finding of whether or not the alleged misconduct occurred. The employer will decide what discipline, if any, is appropriate. A copy of the City Manager or hearing officer's report will be provided to the employee within five (5) working days following the conference.
 5. Pre-disciplinary conferences may be tape recorded. A copy of the recording may be furnished to the employee, at the employee's request, within two (2) working days of the conference, or the employee may also record the conference. All disciplinary action may be appealed through the grievance and arbitration procedures outlined in this agreement (except for verbal and written reprimands as discussed in Section 20.14).

Section 21.04. In cases of dismissal, the employee may request all monies due him within the regularly scheduled pay period after his supervisor and department head certify in writing that all City property has been properly returned and just debts paid to the City.

Section 21.05. Any employee charged with or under indictment for a felony who is not disciplined or discharged by the Employer, may be placed on a leave of absence without pay until resolution of the court proceedings. An employee may use accrued but unused

vacation, holiday, or compensatory time during the leave. (If the Employer does not impose a lost pay discipline [including suspension, demotion, or discharge] the Employer shall reimburse the paid time used by the employee because of the leave of absence without pay.)

ARTICLE 22

LONGEVITY COMPENSATION

Section 22.01. All regular full-time firefighters of the City shall receive, in addition to any and all of the compensation provided by the City, a payment for longevity based upon their length of employment as regular full-time employees as of December One (1) of each year. Such payments shall be made annually on the first pay period after December first (1) of each year and shall be computed as follows:

- A. After two full years of service, one hundred dollars (\$100.00).
- B. After three (3) full years of service, and each year thereafter, the employee's longevity allowance shall be increased by fifty dollars (\$50.00). (For example, after year three [3], the employee is paid one hundred fifty dollars [\$150.00]; after year four [4], the employee is paid two hundred dollars [\$200.00]; after year five [5], the employee is paid two hundred fifty dollars [\$250.00]; etc.)

Section 22.02. Years of service shall be computed for each employee as of December 1 of each year and a regular full-time employee shall be one who is employed for not less than thirty-six (36) hours each week for fifty-two (52) weeks each year.

ARTICLE 23

UNIFORMS

Section 23.01. Each full-time employee of the Fire Division will receive a maintenance allowance in the amount of three hundred dollars (\$300.00) per year. Such maintenance allowance will be paid to all full-time employees of the Fire Division on or before the tenth (10th) working day of February by a separate check. The Employer will require employees to wear a uniform. The Employer shall provide a reasonable number of new uniform items for the employee's use. Employees are required to reasonably care for any uniforms issued, and they may launder such uniforms through machines provided on the Employer's premises.

Section 23.02. New full-time tour and non-tour firefighters shall receive an initial uniform issue of five (5) shirts (long or short sleeve at employees request), one (1) sweat shirt, five (5) pants, five (5) t-shirts, two (2) badges, one (1) work coat with removable liner, one (1) belt, and one (1) pair of appropriate shoes/boots. No further uniform allowances shall be granted during the first year.

Section 23.03. Where an employee supplies evidence that he or she sustained damage to eye glasses, clothing or any other personal property while performing the duties of his assigned

work with due caution and without interference by other employees, the City will reimburse the employee for the cost of necessary repairs or replacements, to a maximum of \$150.00 with proof of repair or replacement. For items damaged with a replacement of above \$150.00, the Chief of Fire Division shall decide the amount of employee reimbursement on a case-by-case basis. The City reserves the right of subrogation.

Section 23.04. Employees must return all badges, patches, and insignias when service to the City has ceased and also any uniforms that have been furnished to them by the City must also be returned. At the discretion of the Fire Chief, an employee may be allowed to retain his badge and/or helmet.

ARTICLE 24 **INSURANCE**

Section 24.01. Life Insurance: The City shall provide each employee in the bargaining unit with life insurance in an amount equal to one (1) year's base rate double indemnity for accidental death.

Section 24.02. The City of Franklin will provide an HMO health care plan and dental insurance for participating employees comparable to the current plan in existence. The City will also continue to provide a PPO form of health insurance to current employees that have this coverage. New employees or current employees that want to change from the HMO to the PPO form of health insurance will be required to pay the entire difference in cost between the HMO and PPO forms. The City will have the right to change carriers.

Effective on January 1, 2004, the bargaining unit and its employees shall withdraw from the Insurance Reserve Fund, and they shall neither participate nor receive any funding from such Insurance Reserve Fund on or after such date. As to insurance premium contributions by bargaining unit employees, such contributions shall be as follows: the participating employee shall pay eight percent (8%) of the applicable premium rate in 2004, eight and one-half percent (8½%) of the applicable premium rate in 2005, and nine percent (9%) of the applicable premium rate in 2006. Employee contributions shall be by payroll deduction and shall be divided into two (2) equal deductions per month.

The parties shall establish a Joint Insurance Committee consisting of representatives from the bargaining unit and management and/or other representatives from other City bargaining units. This Committee will investigate alternate plans and benefits and will submit package recommendations to the Franklin City Council.

Section 24.03. The Employer will provide adequate Professional Liability Insurance ("PLI") for members of the bargaining unit. The coverage currently provided is as follows:

\$10,000,000 per occurrence for Fire Fighters Professional
\$10,000,000 per occurrence Pollution Liability Fire Dept. Training Activities

\$500,000 per occurrence Pollution Liability Fire Departments

All policy coverages are subject to the terms and conditions of the policy. If such PLI is modified during the term of this agreement, the Employer shall notify the Union in writing. If such PLI is discontinued during the term of this agreement, the Employer shall meet with the Union to negotiate an acceptable alternative.

ARTICLE 25
VACATIONS

Section 25.01. All full-time firefighters covered by this agreement shall receive vacation days as follows:

56 Hour Employee		40 Hour Employee	
Consecutive Years of Service (at least)	Vacation Hours	Consecutive Years of Service (at least)	Vacation Hours
1	112	1	80
5	168	5	120
10	224	10	160
15	280	15	200

Section 25.02. Full-time employees must complete one-year of service before receiving vacation benefits, after which time vacation credits will be accumulated on a monthly basis and can be used as they are accumulated. Vacation does not accrue during an unpaid leave of absence, and unpaid suspension, layoff, etc.

Section 25.03. Vacation time shall not be carried over except with the express authorization of the City Manager or his/her designee. This prohibition on carry over of vacation does not apply to vacation accumulating to an employee's credit since his or her most recent anniversary date.

Section 25.04. Employees with one (1) to five (5) years of service shall take at least fifty-six (56) hours off for vacation within the twelve (12) months following the anniversary date of an employee's service with the City on a full-time basis. Employer with over five (5) years of service shall take at least one hundred twelve (112) hours off for vacation. Exemptions from the requirements of the section may be granted by written permission of the City Manager or his/her designee.

Section 25.05. Employees may take pay in lieu of vacation earned as of their last anniversary date of full-time employment with the City, except for the provisions of Section 25.04 hereof,

but such conversion of vacation credits to pay shall be made during the month of January. There shall be no reconversion from pay to vacation credits.

ARTICLE 26 **HOLIDAYS**

Section 26.01. The following holidays are celebrated by all employees:

- | | |
|----------------------|---|
| (a) New Years Day | (g) Thanksgiving Day |
| (b) Easter Day | (h) Friday after Thanksgiving |
| (c) Memorial Day | (I) Day before Christmas |
| (d) Independence Day | (j) Christmas Day |
| (e) Labor Day | (k) Day before New years |
| (f) Veterans Day | (l) Employee's Birthday (the employee only) |

Section 26.02. Holidays start at 7:00 a.m. the day of the holiday and end at 7:00 a.m. the following day.

Section 26.03. Tour of Duty (24/48) employees reporting to duty on the holiday shall be compensated at two (2) times their regular rate for all hours actually worked on the holiday. The maximum amount of pay that a tour of duty employee may receive for working on a holiday shall be forty-eight (48) total hours.

Section 26.04. For both tour-of-duty (24/48) employees, and non-tour-of-duty employees working a shift as a cover employee, who work, in part, from 12:00 a.m. to 7:00 a.m. the day before the holiday (the seven [7] hours prior to that referred to in Section 26.02 of this Article) shall be compensated an additional eight (8) hours pay at their regular hourly rate of pay.

Section 26.05. Tour-of-Duty (24/48) employees, not scheduled to work on a holiday, shall be compensated an additional eight (8) hours pay at their regular hourly rate of pay.

Section 26.06. For all forty (40) hour employees, if any of these holidays fall on Sunday, the following Monday is considered the holiday and if any of these holidays falls on Saturday, the preceding Friday is considered the holiday.

Section 26.07. Holiday regulations for full-time employees:

- A. A full-time employee working a forty-hour (40) schedule shall be excused from work that day with pay. Forty-hour (40) employees who are called in to work on the holiday shall receive double time for all hours actually worked.
- B. In order to be eligible to receive any holiday pay as set forth above, an employee must work the entire scheduled work day immediately prior to, and immediately following

the designated holiday, unless absence from work is due to job related training/schooling, injury or illness in which event a doctor's certificate may be required, or where paid leave is pre-approved prior to the scheduled working day.

- C. If a holiday falls during an employee's vacation period, it shall not be charged to vacation time, except where departmental or Division of Fire Policy is to grant additional time in a lump period in lieu of granting regular holidays off.

Section 26.08. In addition to the above, all full-time employees of Division of Fire shall receive four (4) personal leave days to be scheduled with their supervisor, subject to the needs of the City. Personal days may not be carried over from one year to the next.

ARTICLE 27

TRAINING AND EDUCATION

Section 27.01. The City shall provide tuition and necessary materials for training courses as required by the Department and which deal directly with firefighting, inspection, prevention, emergency medical skills and techniques and/or job related courses. Any schooling, conferences, or seminars being offered to members by the FFD Training Department shall be posted in all stations for a minimum of five (5) days.

Section 27.02. The City of Franklin will pay the cost of tuition for classes that benefit the Department, upon the Fire Chief's approval.

Section 27.03. If an employee fails to successfully complete the course he will reimburse the City for the cost of tuition through payroll deductions. Successful completion means a "Pass" grade in Pass/Fail Grading system, and also, an "A," "B," or "C" grade in a normal A-F grading system.

Section 27.04. Upon successful completion of the course, the employee agrees to provide at least one (1) additional year of service to the City, from the date of completion, or reimburse the City the cost of the tuition through payroll deductions.

Section 27.05. As of January 1, 2001, all new employees must become certified as Emergency Medical Technician-Basic (EMT-Basic) within eighteen (18) calendar months of date of hire, and must maintain certification for continued employment; further, all new employees must obtain all other required certifications within twelve (12) calendar months of date of hire, and must maintain certification for continued employment. Any employee hired prior to January 1, 2001, must become certified as an EMT-Basic, an EMT-Advanced, or an EMT-Paramedic, prior to the termination date of this contract, and he or she must maintain at least EMT-Basic certification for continued employment. The City will pay for the cost of initial training for EMT-Basic and re-certification for the applicable certification (i.e., EMT-Basic, EMT-Advanced, EMT-Paramedic). Employees who are in training or re-certification shall be allowed to attend all classes and training without loss of pay.

Section 27.06. Medical training in addition to Section 27.05, above, will be at the employee's discretion, and the City shall not pay for the cost of such training, certification, or re-certification, unless prior approval for reimbursement is gained from the Employer.

ARTICLE 28 **BULLETIN BOARDS**

Section 28.01. The City will maintain, at no cost to Local 3742 IAFF, one (1) bulletin board size 3' by 3' at each station for Local business. The bulletin boards shall be displayed in a prominent place in each fire station. The bulletin boards shall not be used by individual firefighters to post items which are derogatory to Management. No partisan political information will be posted at any time by either the Union or an individual firefighter. Endorsements by Local 3742 IAFF communicated to members is not partisan political activity. Anything deemed derogatory by Management, except official Union communication, shall be removed. The Union will be responsible to ensure that no defamatory, obscene or personal material is posted on the bulletin board. If management has objections to any defamatory, obscene, or personal posted material, he/she shall inform the Union President of the reason behind the removal of the item and the Union President, or designee, shall remove the material from the "Bulletin Board." If the Union disagrees with the removal of the item, it may pursue a grievance through Article 20 of this agreement. The Union shall have sole responsibility of the "Bulletin Board."

ARTICLE 29
LEGAL APPEARANCE

Section 29.01. Each firefighter required to appear in court resulting from his or her duties or to give affidavits, make statements to Police or other investigators, observe line-ups or engage in any other type of legal appearance pertaining to his or her employment with the City, on other than his or her regularly scheduled tour of duty shall be compensated at the minimum of three (3) hours at the forty-hour rate (or overtime rate if applicable).

Section 29.02. Each firefighter who is required to appear in court, for employment purposes only, while on duty shall be retained on paid status.

ARTICLE 30
VOTING PROCEDURES

Section 30.01. Each employee who is a registered voter and who is assigned to a twenty-four (24) hour tour of duty on Election Day, who makes an honest effort to vote and is prevented from voting by circumstances beyond his control, shall be granted reasonable time off with pay, upon request, to exercise his right to vote.

ARTICLE 31
LOCAL 3742 ACTIVITIES

Section 31.01. Negotiating Committee: Local 3742 shall advise the City of the name of its negotiators, not to exceed two (2).

Section 31.02. The names of duly chosen bargaining representatives of the unit shall be submitted to the Fire Chief sufficiently in advance of scheduled bargaining meetings, so as to permit scheduling for continuity of operations within the department.

ARTICLE 32
AGREEMENT PRINTING

Section 32.01. This Agreement shall be printed by the employer and supplied to each employee within thirty (30) days of its effective date at no cost to the employee. The Employer shall provide a copy of the labor agreement on a floppy disc to the Union within thirty (30) days of its effective date at no cost to the Union.

ARTICLE 33
MISCELLANEOUS BENEFITS

Section 33.01. All furniture and appliances are to be maintained by the City in the sole discretion of the Chief of Fire.

Items referenced above are to be repaired or replaced on an as-needed basis. Any unresolved item to be repaired or replaced shall be referred to the City Manager, in his sole discretion, for final resolution.

Section 33.02. The City shall pay the cost incurred by any employee who is required by the Chief or his designee to attend a meeting or function pertaining to his official duties as such employee during other than his regular working hours. Such cost shall not include transportation to or from such meeting or function if held within the City, but shall include any meal deemed necessary by his superior in view of the hour during which the meeting or function is held. No such meeting or function shall be called or held without the prior written approval of the City Manager. If the City cannot supply the employee with transportation to such meetings or functions, the employee shall be reimbursed at the maximum rate authorized by the IRS for the use of employee's personal vehicle on authorized City business.

Section 33.03. The Employer may provide office space for Union purposes; however, in the event space is provided, and the Employer, in its sole discretion, decides to revoke the Union's right to such space, the Union shall vacate such space. This section, however, is subject to Article 3(Non-Discrimination).

ARTICLE 34
STRIKES AND LOCKOUTS

Section 34.01. No employee shall engage in any strike, sit down, cessation, stoppage or refusal to perform work, including any intermittent strike.

Section 34.02. The Union, its officers and agents shall not in any way authorize, assist, encourage, or participate in any strike, sit down, cessation, stoppage or refusal to perform work, including intermittent strike activity.

Section 34.03. In addition to any other liability, remedy, or right provided by applicable law or statute, should a strike, sit down, cessation, stoppage or refusal to perform work occur, the Union, within twenty-four (24) hours of a request by the employer, shall:

1. publicly disavow such actions by employees;
2. advise employer in writing that such actions by employees has not been caused or sanctioned by the Union;

3. notify employees of its disapproval of such action and instruct such employees to cease and return to work immediately;
4. post notices on the Union bulletin board advising that it disapproves of such action, and instructing employees to return to work immediately.

Section 34.04. The employer agrees that it will not lockout employees during the term of this Agreement and the Union and Employees agree that no picketing or hand billing against the employer will occur during the term of this Agreement.

ARTICLE 35 **WAIVER IN EMERGENCY**

Section 35.01. In cases of emergency declared by the President of the United States, the Governor of the State of Ohio, the City Manager of Franklin, the Director of Homeland Security, or the Federal or State Legislature, such as acts of God or civil disorder, the following conditions of this Agreement may be temporarily suspended by the City:

- A. Time limits for the processing of grievances; and
- B. All work rules and/or agreements and practices relating to the assignment of employees.

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

ARTICLE 36 **SAVINGS CLAUSE**

Section 36.01. If any provision of this agreement, or the application of such provision, should be declared invalid by any court of competent jurisdiction, or by reason of any existing or subsequently enacted State or Federal legislation, or by a court or tribunal of competent jurisdiction the parties shall meet within thirty (30) days of a request by either party to determine the extent, if any, to which changes must be made. Only those articles that are in violation of the laws will be discussed. The remaining parts or portions of this agreement shall remain in full force and effect.

ARTICLE 37
BENEFITS TO BE PAID UPON TERMINATION

Section 37.01. Accrued Vacation Upon Resignation or Death: Subject to the provisions in Article 25, an employee who voluntarily resigns with reasonable notice, or dies, shall be paid for vacation credit earned in the previous year, but not yet taken, and for vacation credit earned in the present year.

Section 37.02. Accrued Vacation Upon Retirement: Subject to the provisions in Article 25, an employee who voluntarily retires with reasonable notice shall be paid for vacation credit earned in the previous year, but not yet taken, and for vacation credit earned in the present year. If the employee notifies, in writing, the Chief of the Division of Fire of his intent to retire during the forthcoming year and the date of his retirement, on or before December 31 of the calendar year preceding the date of his retirement, the employee shall be paid for vacation credit earned in the previous year (second full year prior to the year of retirement), but not yet taken.

The retirement date must be on the employee's anniversary date of hire.

If the employee fails to retire on the date provided to the Chief of the Division of Fire, all vacation credit from the second full year prior to the year of retirement shall be forfeited, unless:

- A. The Chief of the Division of Fire approves a change in the employee's date of retirement, and the retirement shall occur in the same calendar year as originally provided to the Chief of the Division of Fire; or
- B. An unanticipated catastrophic event occurs which requires the employee to postpone his retirement.

If the employee wishes to change his retirement date because of an unanticipated catastrophic event, the employee must submit a written request to the City Manager to carry over the earned vacation from the second full year prior to the year of retirement of the year in which the request is made.

This request must be made on or before the date of retirement provided to the Chief of the Division of Fire. If the City Manager approves the carry over of the earned vacation credit, the vacation must be taken in the calendar year of the decision of the City Manager, and is subject to approval of the Chief of the Division of Fire as to when the vacation days may be taken. If the City Manager denies the carry over of the earned vacation credit, the employee may seek review by a mutual third party (agreed to by the City) at the cost of the employee.

The employee may withdraw his notice of retirement at any time prior to December 31 of the year preceding his retirement. However, if the notice is withdrawn, the employee must take the earned vacation credit for the second full year prior to the year of retirement in the present calendar year.

Section 37.03. Payment of Benefits:

- A. All benefits, under this Article, shall be paid at the forty (40) hour rate.
- B. Vacation credits will be reduced to the total hours times the hourly rate.
- C. Payment of benefits herein contained shall be in a lump sum payment and will be included in the employee's final check. The City may elect to pay benefit in installment payments plus the current interest rate should the City experience a financial emergency.

Section 37.04. Provisions For Employees Who are Dismissed:

- A. In the event a permanently-appointed employee, who has been employed more than one year, is dismissed, he will receive payment for his vacation which he has earned in the previous year and not yet taken, subject to Article 25. He may receive vacation credit earned in the present year as determined by the department head. The department head's decision should be in writing to the City Manager. Total vacation credit must be calculated to the nearest full day.
- B. Computation of Benefits: The Finance Director will be held responsible for the computation of termination benefits. The City Manager shall review the calculations. Any discrepancies shall be satisfied between the Finance Director and the City Manager.

ARTICLE 38
WAGES

Section 38.01. The following pay ranges for certain uniformed members of the Division of Fire within the Service of the City are hereby established.

<u>Position</u>	<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>
Captain	*****	35,913	37,768	39,721
Firefighter/EMT	30,544	33,083	34,800	36,609

(These rates are effective upon execution of the labor agreement.)

A. Effective January 1, 2004, the City will pay to each bargaining unit member a five and three-fourths percent (5¾%) base rate increase.

<u>Position</u>	<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>
Captain	*****	37,978	39,940	42,005
Firefighter/EMT	32,300	34,985	36,801	38,714

B. Effective January 1, 2005, the City will pay to each bargaining unit member a five and one-fourth percent (5¼%) base rate increase.

<u>Position</u>	<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>
Captain	*****	39,972	42,037	44,210
Firefighter/EMT	33,996	36,822	38,733	40,746

C. Effective January 1, 2006, the City will pay to each bargaining unit member a four and one-half percent (4½%) base rate increase.

<u>Position</u>	<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>
Captain	*****	41,771	43,929	46,199
Firefighter/EMT	35,526	38,479	40,476	42,580

Section 38.02. Biweekly Salary: All tour employees shall have their yearly salary divided by 26 to obtain a biweekly salary.

Section 38.03. Salary Adjustment: The salary of each employee shall be reviewed annually or otherwise as herein provided by the Fire Chief for the purpose of determining which employees shall be entitled to a step increase. All of his personnel records, performance, and length of service shall be considered in making recommendations with major emphasis placed on the evaluation of services rendered. On the recommendation of the Fire Chief, the City Manager may advance an employee at the time of such review until the maximum step had been reached.

ARTICLE 39
SPECIAL ASSIGNMENTS

Section 39.01. The positions of inspectors and fire marshals shall be assigned only to firefighters or fire officers during the period of this contract. However, nothing in this agreement is intended to prevent the City from using other City employees for inspections as permitted by law.

ARTICLE 40 **OVERTIME**

Section 40.01. So long as the overtime provisions of the Fair Labor Standards Act (FLSA), as amended, are applicable to state and local government fire department Employees, the Employer shall pay overtime in accordance with existing rules and regulations applicable to the FLSA. At the time of this agreement, overtime will be paid for all hours worked above 212 hours in a 28 day work period according to the FLSA. The Employer reserves the right to adjust its pay periods and overtime periods as allowable by the United States Department of Labor. Although not reaching overtime until 212 hours worked in a 28 day work period, forty (40) hour employees who work between 160 and 212 hours in a 28 day work period shall receive compensation as if they were tour employees (24/48) working overtime (by converting the forty [40] hour employee's salary into an hourly wage dividing by 2912 and multiplying by 1.5).

Section 40.02. Hours worked for purposes of overtime compensation under Section 40.01 of this Article shall include personal, vacation, and sick days taken off.

Section 40.03. Employee assignments to overtime will be in accordance with procedures established between IAFF Local 3742 and the Chief of the Division. If any full-time tour employee's (24/48) regularly scheduled shift becomes vacant, the filling of that shift, if any, will first be offered to other full-time firefighters. This above provision does not apply to non-tour or forty (40) hour employee shifts which become vacant.

Section 40.04. Overtime other than employee call-in or stand-by shall be in quarter (0.25) hour increments.

Section 40.05. The Employer reserves the right to create and utilize an employee tracking procedure which will assist in increasing the efficiency of determining overtime in accordance with the provisions contained within this Article.

Section 40.06. Whenever necessary, the Employer can require employees to perform work during hours or days other than or beyond those falling within their regularly scheduled hours of work (i.e., mandatory overtime). Such time shall be compensated for and regulated as provided in this article.

Section 40.07. Whenever the Employer determines it must cover a shift or tour, it will first offer overtime to bargaining unit employees. The employer shall make a reasonable effort to distribute overtime opportunities among all employees who would normally perform the duties requiring the overtime. Hours will be tabulated at the close of each pay period and will be accessible to the Union. The employee with the least amount of overtime credited (worked and scheduled) who is qualified to perform the overtime assignment shall be offered the overtime opportunity first. At the beginning of each calendar year and in cases of ties, seniority shall prevail. If the employee accepts the overtime opportunity, he shall be credited on the rotation list with the overtime hours offered. If no bargaining unit employee accepts

the overtime, the employer will offer the overtime to qualified part-time non-bargaining unit employees.

In the event no full-time or part-time employee accepts the assignment offered, the overtime will be assigned to a bargaining unit employee in inverse order of seniority, rotating upward after each ordered assignment among qualified employees. If the employee assigned to mandatory overtime has vacation leave or other approved leave prior to or after the mandatory overtime, he or she will not be mandated to work.

In the event the Employer has notice of two (2) hours or less (i.e., sick leave) that overtime is required to fill a shift, the Employer may deviate from the overtime rotation list to the extent that the Employer may offer the overtime to eligible qualified bargaining unit employees on duty at that time in accordance with their status on the overtime rotation list. If the employees do not wish to work the overtime, the Employer may require the least senior of the employees to whom the overtime was offered to remain on duty until such time as a replacement is secured. The employee agreeing, or mandated, to work the overtime will remain on duty until relieved by an employee accepting the overtime and reporting to work.

The overtime rotation system specified herein shall not be applicable to routine overtime work which is a continuation of an assignment begun during the employee's regular shift.

The Employer will maintain a listing of overtime credited to each employee. The listing will include the number of hours worked by each employee and the number of overtime hours scheduled to each employee. The combined total of overtime hours worked and overtime hours scheduled shall constitute the amount of overtime hours credited to the employee. If an employee cannot be contacted when overtime hours are offered (within fifteen [15] minutes of the call or page), that employee shall not be charged with an overtime opportunity and a notation of "No Contact" (NC) shall be noted on the overtime rotation list. Any employee not qualified for the overtime assignments who is therefore by-passed on the list shall be noted as "Not Applicable" (NA).

Newly hired employees and employees returning from extended periods of absence qualified to perform the overtime assignment will begin their overtime calculation at the same number of hours plus one (1) as that of the highest employee for the equalization process.

For purposes of this article, the callout for overtime will be made to the employee's home phone and any provided department communication device. Again, if the employee does not respond within fifteen (15) minutes to the callout, the notation of "No Contact" (NC) shall be noted and the callout will move to the next employee.

The City and the Union will jointly develop any additional procedures for scheduling and tracking overtime which are not covered by this article.

Section 40.08. Whenever the Employer determines it is necessary to hold department-wide training, it shall require all necessary bargaining unit employees to attend such training at the

applicable pay rate. Prior to holding mandatory training sessions, as referenced above, the Employer shall provide at least two (2) weeks notice. Those bargaining unit employees scheduled for vacation or on pre-scheduled leave shall be excused from attending such training.

Section 40.09. Non-Emergency Call Back Pay: In the event an employee is called back outside his regular shift and off duty, he shall be paid a minimum of three (3) hours pay at the time of reporting. Said pay shall be calculated at the rate of time and one-half (1½). In the event an employee is required to work any period in excess of two (2) hours, he shall be paid at the rate of time and one-half (1½) for all hours actually worked. In the event an employee is “called in early,” i.e., ordered to report earlier than the starting time for the next regular shift, he will be compensated three (3) hours at the rate of time and one-half (1½).

This Section is not applicable to pre-scheduled meetings.

ARTICLE 41

HAZARDOUS MATERIAL

Section 41.01. The Division of Fire shall keep, during the time of employment, a file on each member involved in any on-the-job Hazardous Material Incident, to include but not limited to, the following: location, date and time of incident, material involved, if know; exposure length, any injuries received during the incident, and health risks, if known; when exposed to said materials, if known.

ARTICLE 42

TOTAL AGREEMENT, HEADINGS, AND GENDERS

Section 42.01. The provisions in this Contract constitute the entire agreement between The City of Franklin and IAFF Local 3742. Neither party shall be bound by prior written or verbal agreements.

Section 42.02. It is understood the use of headings before articles is for convenience only and that no heading shall be used in the interpretation of any such Article nor effect the interpretation of any such Article.

Section 42.03. Whenever the context so requires, the use of words herein in the singular shall be construed to include the plural, and words in the plural, the singular, and words whether in the masculine, feminine, or neuter genders shall be construed to include all of said genders. By the use of either the masculine or feminine genders, it is understood that said uses are for convenience purposes only and is not to be interpreted to be discriminatory by reason of sex.

ARTICLE 43
EMBODIMENT

Section 43.01. The two parties to this Contract jointly and separately agree that this Contract embodies all applicable provisions relating to employees covered.

Section 43.02. The City and IAFF Local 3742 each certify without reservation that an adequate opportunity has been afforded its bargaining representatives to propose and vigorously advocate all negotiable subject matter during the course of collective negotiations preparatory to signing the Contract. Arrangements, provisions, and procedures previously agreed to by the parties, either formally or informally shall henceforth be void. During the term of this Agreement, each party waives any and all rights to request the other party to negotiate on any subject addressed in this Agreement, except to the extent that this Agreement specifically provides otherwise.

ARTICLE 44
DRUG AND ALCOHOL TESTING

Section 44.01. Purpose of Drug and Alcohol Testing Program

- A. The Fire Department has a legal responsibility and management obligation to ensure a safe work environment, as well as paramount interest in protecting the public by ensuring that its employees have the physical stamina and emotional stability to perform their assigned duties. A requirement for employment must be an employee who is free from drug/alcohol dependence or illegal drug use.
- B. A reasonable drug/alcohol testing program must establish a balance between the rights of the employee and the compelling governmental interest in maintaining a Fire agency free of illegal drugs. Liability could be found against the Department and the employee if we fail to address ourselves with diligence to ensure the employees can perform their duties without endangering themselves or the public.
- C. There is sufficient evidence to conclude that the use of alcohol or illegal drugs and/or drug abuse (whether illegal or prescription drugs) and alcohol abuse seriously impairs an employee's performance and general physical and mental health. The illegal use of drugs by Fire employees (therefore possession) is a crime in this jurisdiction, and clearly unacceptable.

Section 44.02. Definitions

- A. Drug Test: A urinalysis test administered under approved conditions and procedures to detect drugs by a laboratory certified in accordance with Department of Health and Human Services rules and regulations.
- B. Alcohol Test: A blood sample or urine sample taken at either a hospital or accredited testing laboratory, or a breath test administered by an operator licensed by the Ohio Department of Health on a machine approved by the Ohio Department of Health.
- C. Reasonable Suspicion: An apparent state of facts and/or circumstances found to exist upon inquiry by the Fire Chief or his designee, which would warrant a reasonable, prudent person to believe the employee was under the influence of drugs/narcotics and/or alcohol.
- D. Positive Test Result: A test performed: (i) on a blood specimen provided by the employee measuring an alcohol concentration by weight in such specimen of .01% or more; (ii) a breath specimen provided by the employee measuring a concentration of one hundredth gram or more by weight of alcohol per two hundred ten liters of employee's breath; (iii) a urine specimen provided by the employee measuring a concentration of fourteen thousandths of one gram or more by weight of alcohol per one hundred milliliters of employee's urine; (iv) a urine specimen provided by the employee detecting any amount of drug (any controlled substance listed on schedule I-V of 21 C.F.R. 1308).

Section 44.03. General Rules

- A. Department employees shall not take any narcotic or other dangerous drug unless prescribed by a person licensed to practice medicine. Any statutory defined illegal use of drugs by employees, whether on or off duty, is prohibited. Department employees are prohibited from consuming or possessing alcohol at any time during or just prior to the beginning of a work period, or anywhere on City property, including buildings and City owned vehicles.
- B. All property belonging to the Department, including the entire premises of the department, is subject to inspection at any time without notice as there is no expectation of privacy. Property includes, but is not limited to, City owned vehicles, desks, files, etc.
- C. Failure of any Fire employees to comply with the intent or provisions of this Article of the Contract establishes grounds for disciplinary action, including dismissal, or other action determined appropriate by the Fire Chief. Refusal by any Fire employee to take a required test, e.g., a test that is ordered based upon reasonable suspicion as defined in Section 44.02 (C) above, or under circumstances described in Section 44.04 (A) and (B), below, or follow this Article of the collective bargaining agreement, will

result in immediate relief from Fire duties pending disposition of any administrative personnel action. A refusal occurs if the employee fails to agree to submit to a required drug test within two (2) hours after receiving the order, or to a required alcohol test within one (1) hour of receiving the order.

Section 44.04. Policy — Drug Test/Urinalysis and Alcohol Testing

A. Employees of the department shall be required to submit to a test for alcohol, drug or narcotic use of outlined below:

1. The Chief or his designee (Capt. or Shift Commander) or those acting in that position may order a drug/alcohol test for any of the following reasons: (1) he has reasonable suspicion that an employee is using, or is under the influence of drug, narcotics or alcohol, (2) an employee is involved in an accident with property damage estimated to be \$1,000 or greater, and/or (3) an employee is involved in an accident resulting in an injury that required medical attention to either him/herself or anyone else (another employee, member of the community, etc.).
2. The order shall be in writing and the employee shall be advised of circumstances surrounding the order to test.
3. Whenever practical, prior approval should be obtained from the Chief of Fire before his designee orders the test.
4. The Fire Chief or his designee orders a drug or alcohol test when he has reasonable suspicion of an employee's usage or possession, or that an employee is under the influence of drugs and/or alcohol, and shall prepare a report containing the facts and circumstances including any pertinent dates, and times. The report shall be made available to the employee upon request. The employee may provide the report to the Union if he/she chooses.
5. Any positive test result will be submitted as a part of a written complaint by the Fire Chief or his designee ordering the test.

B. In the event that an employee is required to submit to a drug or alcohol test, the following guidelines should be observed:

1. The employee shall be granted time to change from uniform to civilian clothing.
2. The employee will be transported to the designated testing center by a supervisor.

3. The employee may request that a Fire Department employee of his choice be present for the transportation and test, provided said individual is on duty and reasonably available.
 4. A controlled test will be conducted by personnel of the testing site.
 5. Subject to the rules of the testing authority, the employee may have an observer present for the test.
 6. All urine or blood samples will be properly labeled, sealed, and turned over to the site personnel by the employee. The specimen will be divided properly by the designated test center or laboratory designated by the test center.
 7. All parties involved will be transported back to the Fire Department.
 8. If the employee is held over his assigned time he will be compensated for that time.
- C. A negative test result shall bar the City from further discipline, for refusing to submit to a test, and the use or abuse of drugs, in violation of this policy.
- D. A positive test result on a drug test, after the second qualifying test, may serve as a basis to refer the employee to the Employee Assistance Program maintained by the City of Franklin. If the employee refuses or fails to attend the EAP or follow any and all recommendations of EAP, the employee shall be subject to disciplinary action. The Employer or employee shall have the option to have a third test performed. The third test shall be performed by the designated test center or laboratory designated by the test center. The third test shall be a G.C. Mass spec. or a test of equal or greater accuracy (at the designated test center's option). A positive result on the third test may result in discipline. If the employer requests this third test, it shall bear the cost of the test. If the employee requests the test, the cost shall be borne by the employee if the test is positive and by the employer if the test is negative. A negative third test shall bar any action authorized under Article 21. The employer is authorized to deduct any costs due from the employee under this subsection through payroll deduction in two (2) payments without written permission of the employee. A positive test result on an alcohol test may serve as a basis for discipline, up to and including dismissal.
- E. Employees who have been found to be using illegal drugs or narcotics, or abusing prescription drugs or violating the alcohol provisions of this policy, shall be provided a hearing before the City Manager or his designee where evidence is presented and preserved, before final action is taken against the employee.
- F. The City will indemnify and save the Union harmless from any action alleging the constitutionality of administration of this drug testing provision.

G. Each employee will pay \$1.00 per month as a contribution to the EAP.

Section 44.05. Random drug testing is found in Appendix A.

ARTICLE 45 **FITNESS FOR DUTY**

Section 45.01. All employees shall be subject to mandatory standards for fitness for duty. The standards for fitness for duty shall be included in the regulations of the Division of Fire and shall be established by this article. Any employee who fails to comply with these standards may be subject to administrative or disciplinary action. The Employer will allocate at least one-half (1/2) hour per work day (emergency/department responses excepted) for employees to exercise/work out so that employees may prepare for testing and examinations mandated by this article. Further, any out of pocket expense incurred by an employee due to a physical examination required under this article shall be paid by the Employer if the employee's insurance does not cover such expense. The Employer shall provide fitness and testing equipment to prepare for the physical ability testing.

Section 45.02. Physical Fitness. The purpose of the physical fitness program is to ensure that all fire suppression employees of the Franklin Fire Department maintain the level of physical fitness required to do their job and to extend the health of the employees. It is recognized that each employee is responsible for his or her physical conditioning and will diligently strive to meet standards. The parties recognize the need for a systematic standard for progressive discipline if physical fitness is not maintained, as determined by the physical fitness committee.

- A. All fire suppression employees of the Franklin Fire Department shall be given a physical fitness assessment to determine if the employee is physically able to perform the essential functions of his position. In subsequent years under this Agreement the physical fitness assessment and its timing shall follow guidelines established by the physical fitness committee. The physical fitness committee will consult with a medical doctor to determine the content of examinations and the medical standards to be used. The physical fitness committee will select the person(s) to conduct the physical fitness assessment. The Fire Chief will advise the physical fitness committee at the beginning of the fiscal year regarding funding and budget limits. If adequate funding is not available for the physical fitness program, the program shall cease in effect. Expenses and facilities for the physical fitness program shall be paid for by the Employer.
- B. Each year, all fire suppression employees of the Franklin Fire Department may be required to take a physical fitness/physical agility test. All employees hired after the effective date of this contract must pass any required pre-employment physical fitness

test and must pass the physical fitness testing found in this article to retain employment.

- C. A physical fitness committee is hereby established consisting of the Fire Chief, another Employer representative, and two (2) members appointed by the Union.
- D. The Employer and Union agree to develop a job task oriented ability test (consisting of factors such as stair stepper, ceiling breach and pull, forcible entry, hose pull, maze, ladder raise, equipment carry and mannequin carry) as the initial trial standard for the annual physical fitness test required under this article. The Employer will provide a minimum of four (4) tests (with four [4] practice tests) within 2004-2005 for employees to participate and prepare for actual testing beginning in 2006, and for the physical fitness committee to review testing components to determine areas of necessary modification. Within 2006, the Employer will provide a minimum of two (2) tests (with two [2] practice tests).

After the preliminary testing of four (4) tests (with four [4] practice tests) within 2004-2005, the physical fitness committee shall meet to discuss mutually agreed upon modifications to the physical fitness test and shall implement agreed upon modifications. If there is disagreement about necessary modifications by either party, either party may request binding interest arbitration within thirty (30) days of the modification meeting of the physical fitness committee described in the previous sentence. Such interest arbitration shall be through the American Arbitration Association.

- E. If an employee successfully passes the physical ability test/job task oriented ability test in the year 2006, he or she should be compensated one thousand dollars (\$1000.00) on the first pay period in December of 2006. The final test for the year 2006 shall be no later than November 15, 2006 to receive the bonus.

ARTICLE 46

FAMILY MEDICAL LEAVE

Section 46.01. Family and medical leaves shall be granted in accordance with the Family and Medical Leave Act of 1993 as amended, and the policy and procedure manual of the City of Franklin if any.

ARTICLE 47
DURATION

Section 47.01. This contract shall be effective October 12, 2003 and shall remain in force until October 11, 2006. Thereafter it shall be in effect from year to year unless either party notifies the other in writing at least sixty (60) days prior to the term of this agreement, of any intention to make changes or terminate the agreement.

Section 47.02. The Parties agree that they will equally divide the fees of any Fact Finder required to resolve impasse reached by the Parties, unless the State Employment Relations Board (“SERB”) defines particular fee payment through policy and/or rule.

ARTICLE 48
WORK RULES

Section 48.01. The City or its designee(s), in order to carry out its statutory mandates and goals, maintains the right to promulgate and enforce work rules, policies, procedures, and directives, consistent with statutory authority, to regulate the conduct of employees and the conduct of services and programs in accordance with the provisions of this Agreement. For the purpose of this Article, all of the above shall be considered inclusive in the terminology of work rules.

Section 48.02. Work rules shall be applied uniformly within the group of employees to whom such rules are directed.

Section 48.03. All work rules relating to safety standards and safe practice procedures shall, in addition to being posted, be verbally communicated to each affected employee by the Chief, or designee, or by the use of outside vendors for the conduct of awareness training. The Employer shall require employees to sign or initial acknowledgment of new safety standards and safe practice procedures.

ARTICLE 49
LABOR/MANAGEMENT MEETINGS

Section 49.01. In the interest of sound labor/management relations, and for the purpose of addressing important health and safety issues, the parties agree to meet at agreeable dates and times for the purpose of discussing those issues outlined herein. Normally, meetings held pursuant to this Article will occur no more frequently than once every four (4) months, unless matters of an urgent nature (i.e., serious safety issues) require immediate attention. No more than two (2) employee representatives in pay status will attend such meetings. The IAFF and the City may have representatives as each deems necessary to address the issues.

Section 49.02. The party requesting the meeting shall furnish an agenda and the names of the employees who will be attending, with the request for the meeting. Subjects that may be discussed at these meetings shall include but not be limited to the items listed below:

- A. Discuss the administration of this Agreement.
- B. Notify the IAFF of the changes made by the City which may affect bargaining unit members.
- C. Discuss grievances which have not been processed beyond the final step of the Grievance Procedure when such discussions are mutually agreed to by the parties.
- D. Disseminate general information of interest to the parties.
- E. Give the IAFF representative the opportunity to share the views of its members and/or make suggestions on subjects of interest to its members.
- F. Discuss ways to improve efficiency and work performance.
- G. Consider and discuss health, safety, training, safe work practices, and methods, equipment, tools and facilities.
- H. Review all health and safety complaints and make recommendations for corrective action.

Section 49.03. Written responses promised by either party shall be submitted to the other party within ten (10) calendar days after such meeting.

ARTICLE 50

CONTRACT CONSTRUCTION

Section 50.01. The provisions (including procedures) of this Agreement supersede those provisions (including procedures) in the Revised Code covering the same subject matter, except where specifically provided for in this agreement.

ARTICLE 51

RESIDENCY

Section 51.01. All employees must reside within a twenty (20) mile radius from the Fire Department administration building (located at 45 East Fourth Street, Franklin, Ohio) within six (6) months after permanent appointment to the Fire Department and, as a condition of continued employment, must continue to reside within such limitation. A map illustrating the twenty (20) mile radius will be attached as an Appendix to this agreement. In the event required residency is

outlawed or found unconstitutional by either State of Ohio or the U. S. Federal government, then employees shall have a right to live anywhere they choose.

ARTICLE 52
UNION BUSINESS

Section 52.01. Non-tour employees who are duly elected delegates of the Union, or those non-tour employees who are elected to an International Union office will be permitted up to five (5) unpaid workdays per year to attend meetings and functions related to their office or status as a delegate to a Union convention or conference. Elected tour employees will be allowed the same benefit but shall only be allowed three (3) unpaid tour days for such functions. Employees must provide one (1) week notice prior to attending such meetings or functions.

SIGNATURE PAGE

IN WITNESS WHEREOF, the parties have hereunto signed by their authorized representative this ____ day of _____, 20 ____.

FOR THE CITY OF FRANKLIN,
OHIO

FOR THE INTERNATIONAL
ASSOCIATION OF FIRE FIGHTERS,
LOCAL 3742

James Lukas
City Manager

Tony Abston
IAFF Local 3742

Jonathan Westendorf
Fire Chief

Michael Perry
IAFF Local 3742

APPROVED AS TO FORM

Stephen Runge
City Law Director

APPROVED AS TO CONTENT

Brett A. Geary
Labor Consultant

ATTEST:

Clerk to City Council

APPENDIX A

A. MINIMUM REQUIREMENT

Annually, a minimum number of bargaining unit employees (currently 25% for alcohol and 50% for controlled substances) shall be randomly selected for testing. Testing will be unannounced. Further, the Employer will include these bargaining unit employees with other City employees legally subject to a random drug testing program.

B. TEST RATE FOR ALCOHOL

The testing percentage for alcohol may be reduced to 10 percent if the departmental-wide results for two (2) consecutive calendar years indicate that the violation rate is less than 0.5 percent; the annual percentage may be increased back to 25 percent if the violation rate for any calendar year is between 0.5 and 1.0 percent or to 50 percent if the violation rate for the year is over 1.0 percent.

C. TEST RATE FOR CONTROLLED SUBSTANCES

The testing percentage for controlled substances may be reduced to 25 percent if the departmental-wide results for two (2) consecutive calendar years indicate that the violation rate is less than 1.0 percent; the annual percentage may return to 50 percent if the department random positive rate is 1.0 percent or higher in any subsequent calendar year.

D. METHOD OF SELECTION

The selection of bargaining unit members shall be based on a scientifically valid method, such as a random number table of a computer based random number generator that is matched with social security numbers. All bargaining unit members shall have an equal chance of being tested each time selections are made.

E. SAFETY-SENSITIVE FUNCTION

A bargaining unit member shall only be tested for alcohol while the member is performing, immediately prior to performing, or immediately after performing, safety-sensitive functions. A member may be randomly tested for controlled substances regardless of whether the employee is currently performing any safety-sensitive functions. A member shall only be selected for alcohol and drug tests while the member is on his regular tour of duty.

F. NOTIFICATION OF SELECTION

The Employer shall contract with an outside facility capable of providing random selection services. The facility making the random selection should notify the Employer representative three (3) to five (5) days in advance of the scheduled test date of the employees selected. The Employer representative should prepare the notices, notify the department representative or the division head of the selections and request that the department representative or division head pick-up the notices. The department representatives or division head should notify the supervisors and/or the employees at the time they are required to report for testing. All representatives and the department head shall keep the identity of the employees selected confidential.

G. CEASE PERFORMANCE

The Employer shall ensure that when an employee is selected for random drug and/or alcohol testing, the employee ceases to perform the safety-sensitive function and reports to the test site immediately.

H. ABSENT EMPLOYEE

In the event an employee who is selected for a random controlled substance test is on vacation, or an extended medical absence, the Employer may either select another employee for testing or keep the original selection confidential until the employee returns.

I. NOTIFICATION OF POSITIVE RESULTS

The Employer is required to notify the employee if the controlled substance test results were positive and which substances actually tested positive. Employees shall be notified of negative results upon request if such results can be made available to the Employer.

J. CONSORTIA

If the Employer conducts random alcohol and/or controlled substance testing through a consortium, the number of employees to be tested may be calculated for each individual employer or may be based on the total number of subject employees covered by the consortium.

APPENDIX B
RESIDENCY MAP

(The above map represents the residency limitations in Article 51. A larger and more legible copy of this map is filed with the Fire Chief and the Union President. Please contact either individual with questions regarding residency.)