

IN THE COURT OF COMMON PLEAS
MAHONING COUNTY, OHIO

YOUNGSTOWN PROFESSIONAL)	
FIREFIGHTERS, IAFF LOCAL 312,)	CASE NO.
55 South Roanoke Avenue)	
Youngstown, OH 44515)	JUDGE
)	
Plaintiff,)	
)	
v.)	<u>COMPLAINT TO COMPEL</u>
)	<u>ARBITRATION OF COLLECTIVE</u>
)	<u>BARGAINING AGREEMENT</u>
CITY OF YOUNGSTOWN,)	
c/o Director of Law, Jeff Limbian)	
26 South Phelps Street)	
Youngstown, OH 44503)	
)	
Defendant.)	
)	

NOW COMES Plaintiff, the Youngstown Professional Firefighters, IAFF Local 312 ("Union"), by and through counsel, and for its Complaint to Compel Arbitration of Collective Bargaining Agreement against Defendant, City of Youngstown ("City"), states as follows:

INTRODUCTION

1. This action is brought pursuant to Section 2711.03 of the Ohio Revised Code, for an Order compelling arbitration.

PARTIES AND VENUE

2. Plaintiff, Union, is an employee organization, as defined by Section 4117.01(D) of the Ohio Revised Code, and the deemed certified exclusive representative of a bargaining unit of all firefighting personnel employed by the City, with the exception of the Fire Chief.

3. Defendant, City, is a public employer, as defined by Section 4117.01(B) of the Ohio Revised Code.

4. Venue is proper pursuant to Rule 3(B) of the Ohio Rules of Civil Procedure.

FACTS

5. The Union and the City are parties to a Collective Bargaining Agreement (“CBA”) effective June 1, 2020 to May 31, 2023. (Exhibit A).

6. The CBA contains a Grievance and Arbitration procedure, set forth under Article 10 of the CBA.

7. Article 10, Section 1 defines a grievance as “any dispute between an employee and the City or its representative involving an allegation that there has been a breach, misinterpretation, or improper application of this Agreement.” (Exhibit A, p. 7).

8. Article 10 provides for a four (4) step process to resolve grievances. Under Article 10, Section 4, Step 4: “Within thirty (30) calendar days of the receipt of the [Step 3] decision of the Mayor’s designee or within thirty (30) calendar days from the date the City’s representative should have rendered a decision, the grievant may proceed to arbitration by notifying the City in writing.” (Exhibit A, p. 7).

9. Article 10, Section 4, Step 4 further provides: “Within ten (10) calendar days from the receipt of the signed appeal for arbitration from the Union President/Designee, the parties shall confer for the purpose of selecting an arbitrator. If the parties fail to agree, the City or the Union may jointly request a panel of fifteen (15) Ohio based arbitrators from the Federal Mediation and Conciliation Service (FMCS). Once FMCS submits the panel of arbitrators to the parties, each party shall have fourteen (14) calendar days from the mailing date in which to strike any name to which it objects, number the remaining names to indicate the order of preference, and return the list to the FMCS.” (Exhibit A, p. 7).

10. Article 10, Section 4, Step 4 states: “The arbitrator’s decision shall be binding upon the City, the Union, and the grievant.” (Exhibit A, p. 8).

11. On February 4, 2022, the Union filed Grievance 22-001 at Step 2, challenging the City's unilateral action of ordering bargaining unit members to quarantine after workplace exposures to COVID-19 and requiring the quarantined members to use their own sick leave for such quarantines despite not being sick or showing signs of being sick. (Exhibit B). Grievance 22-001 alleged violations of Articles 11 (Discipline) and 22 (Sick Leave). (Exhibit B).

12. On February 7, 2022, the City denied Grievance 22-001 at Step 2. (Exhibit C). The City did not object to the grievance's arbitrability.

13. On February 18, 2022, the Union processed Grievance 22-001 to Step 3. (Exhibit D).

14. On March 10, 2022, the City denied Grievance 22-001 at Step 3. In the City's Step 3 decision denying the grievance, City Deputy Law Director Dan Dascenzo wrote: "10. Grievant may refer to Article 10, Section 4, Step 4 regarding its respective right to advance this matter to Step 4 (Arbitration), if it so chooses." (Exhibit E). The City did not object to the grievance's arbitrability.

15. On April 4, 2022, the Union requested to hold Grievance 22-001 in abeyance pending the outcome of a pending arbitration regarding an almost identical dispute between the parties, FMCS Case No. 210319-05026. (Exhibit F). The City denied the Union's request to hold Grievance 22-001 in abeyance.

16. On April 4, 2022, the Union informed the City of its intent to process Grievance 22-001 to arbitration. (Exhibit G). The Union offered to discuss an agreed upon arbitrator appointment.

17. Deputy Law Director Dascenzo and the undersigned discussed mutually selecting an arbitrator. However, the parties were unable to reach an agreement and, on April 26, 2022,

Deputy Law Director Dascenzo stated that the Union could request an FMCS panel. Again, the City did not object to the grievance's arbitrability. (Exhibit H).

18. On April 26, 2022, the Union requested a panel of arbitrators from FMCS.

19. On May 9, 2022, after both parties submitted their arbitrator rankings to FMCS, FMCS appointed Arbitrator Mitchell Goldberg to serve as the arbitrator in the instant case. (Exhibit I).

20. On May 10, 2022, Arbitrator Goldberg accepted the appointment and provided the parties with available dates to conduct the hearing. (Exhibit J, p. 3).

21. On May 13, 2022, the Union replied to Arbitrator Goldberg concerning his availability. That same day, Deputy Law Director Dascenzo replied in part: "Thank you for providing a selection of possible dates. July 29, 2022 works for employer. August is also wide open." (Exhibit J, p. 2).

22. On May 16, 2022, the Union responded with its availability for a hearing. That same day, the Arbitrator confirmed August 4 and 5, 2022 for the hearing dates. Deputy Law Director Dascenzo then replied, "Okay by me. Thanks." (Exhibit J, p. 1).

23. As of 9:14 AM on May 16, 2022, the parties and Arbitrator Goldberg confirmed the hearing date to be scheduled for August 4 and 5, 2022. (Exhibit J, p. 1).

24. At 1:51 PM on May 16, 2022, Deputy Law Director Dascenzo wrote: "I have to request that the proposed arbitration hearing date not be set at this time. I wanted to message before confirmation from Union. I was unaware that this matter is being handled by employer's outside counsel. After speaking with counsel, it was conveyed that neither August 4 or 5 is available for a hearing and also that the arbitrability of this grievance is going to be challenged. As such, considering it cannot be determined how long the court may take to determine the issue, it doesn't

make any sense to have a hearing date set on all calendars until a determination on that threshold issue has been addressed by the court. I apologize for the misunderstanding.” (Exhibit K, pp. 3-4).

25. The Union replied to Deputy Law Director Dascenzo and Arbitrator Goldberg, expressing that Deputy Law Director Dascenzo’s email was the first time the Union was made aware of an objection to Grievance 22-001’s arbitrability. (Exhibit K, p. 3). To date, the City has not explained its arbitrability objection to the Union.

26. On May 17, 2022, Deputy Law Director Dascenzo informed Arbitrator Goldberg and the Union that it planned to seek a determination of the issue of substantive arbitrability through court action. (Exhibit K, p. 2). Deputy Law Director Dascenzo also represented that he would contact the undersigned “to discuss the matter in more detail” to see if the parties could avoid a court filing. (Exhibit K, p. 2).

27. On May 24, 2022, after not hearing from the City, the undersigned contacted Deputy Law Director Dascenzo inquiring into the City’s willingness to submit the issue of arbitrability to Arbitrator Goldberg. The City declined. (Exhibit K, p. 1).

28. To date, the City has refused to schedule an arbitrator hearing concerning Grievance 22-001.

COUNT 1:

Failure to perform Under Written Agreement to Arbitrate

29. The Union alleges and incorporates Paragraphs 1 through 28 of its Complaint to Compel Arbitration of Collective Bargaining Agreement as if fully rewritten herein.

30. The CBA between the Union and the City require that all disputes concerning the terms of the CBA be resolved through final and binding arbitration.

31. The Union and the City have agreed to resolve disputes concerning the use of sick leave (Article 22) and discipline (Article 11) through the grievance and arbitration procedure set forth under Article 10 of the CBA.

32. The Union and the City have previously arbitrated a nearly identical grievance under the same CBA and the same grievance and arbitration procedure.

33. The City refuses to arbitrate the dispute concerning the mandatory use of sick leave for COVID-19 related quarantines.

34. The City refuses to even submit to the arbitrator the issue of whether the grievance is procedurally and/or substantively arbitrable.

35. As a result of the City's refusal to submit the dispute to arbitration, the City is in violation of Ohio Revised Code Section 2711.01 and Article 10 of the parties' CBA.

36. Pursuant to Ohio Revised Code Section 2711.03, the Court has jurisdiction to compel the arbitration of Grievance 22-001.

WHEREFORE, Plaintiff, the Youngstown Professional Firefighters, IAFF Local 312, hereby respectfully requests an Order from the Court, which compels Defendant, City of Youngstown, to proceed to arbitration pursuant to Article 10 of the Collective Bargaining Agreement. Further, the Union respectfully requests that the Court Order the City to pay the Union's costs, expenses, and attorney fees in having to Compel the City to abide by its contractual obligations.

Respectfully submitted,

MUSKOVITZ & LEMMERBROCK, LLC

/s/ Brooks W. Boron

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Youngstown Professional Firefighters,

IAFF Local 312

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **COMPLAINT TO COMPEL
ARBITRATION OF COLLECTIVE BARGAINING AGREEMENT** was served on this 27th
day of May, 2022, upon:

Jeff Limbian, Law Director
Daniel Dascenzo, Deputy Law Director
City of Youngstown
City Hall, 4th Floor
26 South Phelps Street
Youngstown, OH 44503
jlimbian@youngstownohio.gov
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Counsel for Defendant

/s/ Brooks W. Boron

Brooks W. Boron (0096847)

CITY OF YOUNGSTOWN
AND THE
INTERNATIONAL ASSOCIATION
OF FIREFIGHTERS (IAFF)
LOCAL 312

SERB Case No. 2020-MED-02-0149

Effective June 1, 2020

through

May 31, 2023

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PREAMBLE/PURPOSE

Section 1. This Agreement is made between the City of Youngstown (hereinafter referred to as the "City") and Local 312 of the International Association of Firefighters, AFL-CIO-CLC (hereinafter referred to as the "Union"). This Agreement is intended to formalize the understandings reached by the negotiating committees of the City and the Union.

Section 2. This Agreement is made for the purpose of promoting cooperation and harmonious relations between the City and its firefighter employees.

Section 3. No changes in this Agreement shall be negotiated during the duration of this Agreement unless there is a written accord by and between the parties hereto to do so, which written accord shall contain a list of those matters to be subject to such negotiations. Any negotiated changes to be effective and incorporated in this Agreement must be in writing and signed by the parties.

ARTICLE 1 **RECOGNITION/REPRESENTATION**

Section 1. The City hereby recognizes Local 312 of the International Association of Firefighters, AFL-CIO-CLC, as the sole and exclusive bargaining agent for all sworn firefighters employed by the City, except for the Fire Chief, for the purpose of collective bargaining about any and all matters relating to wages, hours, and terms and conditions of employment.

Section 2. There shall be a maximum of two (2) stewards per turn to represent bargaining unit members. The Union will supply the City with the names of all stewards and keep this list of names current at all times. The investigation and writing of grievances may be done on City time. However, this investigation and writing shall not take precedence over normally scheduled work duties or any emergency, nor shall a steward leave his quarters for the purpose of investigating and writing a grievance. Any other Union activity on City time is subject to City approval.

Section 3. Union Time. The City will allow up to ninety-six (96) hours paid time off per calendar year for Union officials to conduct Union business and/or attend Union sponsored functions. The Fire Chief and Turn Commander must be given notification of time requested under this provision no less than seventy-two (72) hours prior to use; otherwise the Fire Chief may deny the use of Union time off.

Section 4. President IAFF L-312. The President of IAFF L-312, or a designee if he is not available, shall be released from duty for any Union-related business with the prior approval of his supervisor. Such approval shall not be unreasonably withheld. Leave for Union-related business may not create overtime.

ARTICLE 2 **NON-DISCRIMINATION**

Section 1. In the administration of this Agreement, neither the City, its agents, agencies, or officials, nor the Union, its agents or officers, will unlawfully discriminate against any firefighter

on the basis of age, sex, marital status, race, color, religion, national origin, military status, political affiliation, genetic information, or disability as provided under state or federal law.

Section 2. There shall be no intimidation or coercion of employees into joining the Union or continuing their membership therein. There shall be no discrimination, interference, restraint, or coercion by the City against any employee for his activity on behalf of or because of membership in the Union. There shall be no interference with the right of employees to become members or to continue as members of the Union.

Section 3. Gender Neutral. Within the provisions of this Agreement, it is the intent of the parties that all references to gender specific terms (e.g., his, he, etc.) be construed to include the opposite sex.

ARTICLE 3 **NO STRIKE/NO LOCKOUT**

Section 1. There shall be no strikes, work stoppages, interruptions or impeding of work. No officer or representative of the Union shall authorize, instigate, aid, or condone any such activities. No employee shall participate in any such activities.

Section 2. There shall be no lockouts.

ARTICLE 4 **MANAGEMENT RIGHTS**

Section 1. Except as restricted by the terms and conditions of the collective bargaining agreement, the City retains the following rights and responsibilities.

- A. Determine matters of inherent managerial policy which include, but are not limited to, areas of discretion or policy such as the functions and programs of the public employer, standards of services, its overall budget, utilization of technology and organizational structure.
- B. Direct, supervise, evaluate, or hire employees.
- C. Maintain and improve the efficiency and effectiveness of governmental operations.
- D. Determine the overall methods, process, means or personnel by which governmental operations are to be conducted.
- E. Suspend, discipline, demote or discharge for just cause or lay off, transfer, assign, schedule, promote or retain employees.
- F. Determine the adequacy of the work force.
- G. Determine the overall mission of the Employer as a unit of government.

H. Effectively manage the work force.

I. Take action to carry out the mission of the public employer as a governmental unit.

Section 2. The parties specifically agree and understand that the Youngstown Civil Service Commission has no jurisdiction to resolve disputes arising out of the interpretation or application of this collective bargaining agreement. Appeals of management's actions to suspend, discipline, demote, or discharge for just cause may be processed through the grievance procedure as outlined in this Contract.

ARTICLE 5

UNION MEMBERSHIP/CHECK-OFF/ACTIVITY

Section 1. All firefighters shall be eligible to become members of the Union and to retain such membership.

Section 2. Dues Deduction. The City, pursuant to law, will deduct monthly dues, assessments, and initiation fee as designated by the treasurer of the Union. This is to include uniformly required membership dues and assessments of the Firefighters Union. The deductions are to be made on the basis of individually signed authorization check-off cards unless otherwise provided by law. The City will deduct back Union dues upon obtaining an employee signature on an authorization card specifically for this purpose. The Union shall defend and indemnify the City against any and all claims or demands against it arising out of this deduction.

Section 3. Fair Share Fee. In recognition of the Union's services as the bargaining representative, members of the bargaining unit may share in the financial support of the Union by paying a service fee. The assessment and collection of all fair share fees including, but not limited to automatic payroll deductions, shall be in accordance with Ohio Revised Code, Section 4117.09(C). The deduction shall be transmitted to the Union no later than ten (10) days following the end of the first pay period of each month. The Union shall defend and indemnify the City against any and all claims or demands against it arising out of this deduction.

ARTICLE 6

SEVERABILITY, LEGALITY, & MID-TERM BARGAINING

Section 1. It is the intent of the City and the Union that this Contract and its various provisions shall be effective and carried out in accordance with applicable law. If any provision or part of this Contract is found to be illegal, contrary to law, and unenforceable by a court or by any tribunal of competent jurisdiction having authority to make that decision, that provision, article, or part of this Contract so held to be illegal shall alone be held null and void. The remainder of this Contract in all parts shall remain in full force and effect.

Section 2. In the event that any part of this Contract should be so found to be illegal or contrary to law, the City and the Union shall meet within fourteen (14) days of the finalization of the decision to discuss same and to determine whether a lawful alternative provision can be agreed upon. In the event this type of meeting should occur, the only matter to be discussed would be

the question of a lawful alternate provision. In the event the parties are unable to agree on an alternative provision to that which was invalidated, either party may execute a notice to negotiate with SERB for the purpose of addressing the invalidated provision and submit the matter to the dispute resolution procedures of R.C. 4117.14.

Section 3. Mid-Term Bargaining. Neither party is obligated to bargain over any matter already covered by the Agreement. Where a proposed action involved a mandatory subject of bargaining and is not already provided for by the Agreement, then the Employer, prior to taking such action, shall inform the Union of said proposed action prior to the date of implementation and the parties shall meet to negotiate the matter. Should the Employer implement a change prior to an agreement being reached, the Union may immediately submit the dispute for resolution through the arbitration procedure as set forth below. The arbitrator shall be selected pursuant to Article 10, Section 4, Step 4.

Not later than five (5) calendar days before the arbitration hearing referenced herein, each of the parties shall submit to the arbitrator and opposing party a written report summarizing the unresolved issue(s), the party's final offer as to the issue(s), and the rationale for that position. The arbitrator shall resolve the dispute between the parties by selecting, in an issue-by-issue basis, from between each party's final settlement offers, taking in to consideration the criteria set forth under Ohio Revised Code section 4117.14(G)(7). The arbitrator shall make written findings of fact and promulgate a written opinion and order upon the issues presented to the arbitrator. All fees and expenses of the arbitrator will be borne by the loser of any arbitration under this Section 3.

ARTICLE 7 **BARGAINING UNIT SENIORITY**

Section 1. Definition. Bargaining unit seniority is computed as the length of accumulated, uninterrupted, full-time service as a sworn Youngstown firefighter with the Employer.

Section 2. A seniority roster shall be established showing each employee's length of service as a sworn Youngstown firefighter. The City shall post this roster in a conspicuous place in the Fire Department and shall update it at least every six (6) months.

Section 3. Seniority is broken by:

- A. A voluntary termination (resignation);
- B. Discharge for cause;
- C. Failure to return to work after layoff within fourteen (14) days after notification to return by registered mail addressed to the employee's last address on City records, unless unable to return due to illness or disability or unless such time is extended by the City.

Section 4. An employee suspended for thirty-one (31) days or more does not accumulate seniority during the period of suspension. If through the grievance procedure the suspension is reduced or overturned, the employee's seniority shall not be affected.

ARTICLE 8
LABOR MANAGEMENT COMMITTEE

Section 1. Each of the parties acknowledges the rights and responsibilities of the other party and agrees to discharge its responsibility under this Contract. The Union, its officers, representatives, and members are bound to observe the provisions of this Contract. The City, its officers, and representatives are bound to observe the provisions of this Contract.

Section 2. The parties agree to establish a Labor Management Committee (LMC) that will provide a forum for labor and management concerns. Through the LMC forum the parties will hopefully avoid disputes over the interpretation of contract language and discuss any new proposals for the organization and/or administration of the fire service, including changes in rules and regulations, standard operational procedures, and general orders.

Section 3. The Committee shall meet within fourteen (14) calendar days of the implementation of a proposed change. Notice to meet shall come from the Fire Chief's office no later than fourteen (14) calendar days prior to implementation.

Section 4. The Committee shall meet no less than once every six (6) months. The Committee shall be comprised of two (2) management designees, one of which shall be the Fire Chief and two (2) labor designees. In the event of a tie vote among the designees, the Mayor or his designee shall break the tie.

Section 5. Emergency changes shall be the subject of a Committee meeting within fourteen (14) calendar days after implementation.

Section 6. Either party may call for a meeting. When requested, a meeting shall convene within fourteen (14) calendar days.

ARTICLE 9
HEALTH & SAFETY COMMITTEE

Section 1. The Chief shall assign a Safety Officer for the department who shall coordinate safety meetings at least once a month. There shall be one (1) safety officer assigned to suppression at all times. Out-of-rank pay to the battalion chief's rate will be paid in the absence of the assigned safety officer.

Section 2. The City shall continue to provide each member assigned to suppression with their own personal mask for the Self-Contained Breathing Apparatus. The City also agrees to supply P.A.S.S. devices for each Self-Contained Breathing Apparatus unit.

Section 3. The City agrees to furnish and to maintain in safe condition all tools, facilities, vehicles, supplies, and equipment required to safely carry out the duties of each employee.

Section 4. The City shall continue to provide Hepatitis B and C screenings and necessary inoculations to those employees desiring such. The Battalion Chief assigned as the department

safety officer shall ensure that all personnel are immunized as stated herein and that they have current CPR training. The Safety Chief shall maintain records for such, and shall develop a departmental exposure control plan.

Section 5. The City shall have available for emergency use twelve (12) sets of bunker coats/pants and helmets. All firefighters assigned to suppression shall have back-up gloves/hoods. An employee will suffer no loss in straight time pay if waiting on back up gear.

ARTICLE 10 **GRIEVANCE AND ARBITRATION**

Section 1. Definition. A grievance is any dispute between an employee and the City or its representative involving an allegation that there has been a breach, misinterpretation, or improper application of this Agreement.

Section 2. The applicable procedures of the contract will be followed for the settlement of grievances. Grievances shall be processed on the forms that appear in Appendix D of this agreement. If the deadline for acting within the grievance procedure falls on a non-business day, the applicable timeline shall be extended to the next business day.

Section 3. Procedure Generally. A grievance can be started by the employee or his representative starting at Step 1, or by the employee's representative starting at Step 2. Grievances must be initiated within fourteen (14) calendar days following the occurrence or the discovery of the occurrence giving rise to the dispute. Nothing in this article shall be interpreted as discouraging or prohibiting informal discussions regarding a dispute prior to the filing of the grievance.

Grievances involving discipline may be initiated at Step Three (3) of the grievance procedure. Grievances involving termination may proceed directly to arbitration subject to the applicable time limits.

It is acknowledged by the parties that this is a final and binding grievance procedure as defined in Ohio Revised Code, Section 4117.10, and that specific provisions of this Contract are to be resolved through the procedures set out in Section 4117.10, excluding Civil Service from jurisdiction as to any specific contractual provisions.

Section 4. Procedure.

Step 1. If an employee has a dispute with the City, he may elect to discuss said matter with his immediate supervisor within five (5) calendar days of the triggering event. The supervisor shall respond to the employee within five (5) calendar days from the date that the grievance is discussed.

Step 2. If the employee is not satisfied with the response of the City given at Step 1, the employee or the Union can submit the grievance in writing to the Fire Chief or his authorized representative within fourteen (14) calendar days of the date of the Step 1 answer, or if the grievance was initiated at Step 2, within fourteen (14) calendar days of the triggering event.

All documents to be considered in Step 2 must be dated, appropriately signed, and timely filed.

When the Fire Chief receives the grievance, he or his authorized representative shall arrange a meeting with the grievant and/or the Union within fourteen (14) calendar days to discuss the grievance or render a decision granting/denying the grievance. If a meeting is held, the City shall render its decision in response to the grievance no later than seven (7) calendar days after the above-prescribed meeting. This decision must be in writing and signed by the Fire Chief or his authorized representative.

If the employee or the Union is not satisfied with the Chief's decision, they may process the grievance within fourteen (14) calendar days to the Mayor's designee or to any person designated as the City's representative by the Mayor.

Step 3. Mayor's Designee. Within fourteen (14) calendar days from the receipt of the grievance, the Mayor's designee shall either grant the remedy requested by the employee, deny the grievance, or hold a hearing to evaluate and decide the grievance. This hearing may be attended by the grievant and/or representative of the Union, the Fire Chief or his authorized representative, and a person designated to act for the City by the Mayor.

Should a hearing occur, within ten (10) calendar days, the Mayor's designee shall make a decision in writing and transmit a copy of same to the Union and the affected employee(s).

If the City fails to respond within the prescribed time limits at any point in the process, the grievance may be advanced to the next step in the grievance procedure.

Step 4. Arbitration. Within thirty (30) calendar days of the receipt of the decision of the Mayor's designee or within thirty (30) calendar days from the date the City's representative should have rendered a decision, the grievant may proceed to arbitration by notifying the City in writing. This appeal to arbitration is conditioned on the approval of the President of the Union.

Within ten (10) calendar days from the receipt of the signed appeal for arbitration from the Union President/Designee, the parties shall confer for the purpose of selecting an arbitrator. If the parties fail to agree, the City or the Union may jointly request a panel of fifteen (15) Ohio based arbitrators from the Federal Mediation and Conciliation Service (FMCS). Once FMCS submits the panel of arbitrators to the parties, each party shall have fourteen (14) calendar days from the mailing date in which to strike any name to which it objects, number the remaining names to indicate the order of preference, and return the list to the FMCS. Each party may reject up to one (1) list and request another list at the rejecting party's expense.

The City shall furnish an appropriate room and facilities for the arbitration hearing, and if this involves costs, said costs shall be borne equally by the City and the Union. The arbitrator's fees and other expenses shall be borne by the loser of the arbitration, except that if the arbitrator renders a split decision, the arbitrator's fees and other expenses will be shared equally by the parties. The cost associated with the appearance of witnesses, attorney, the production of documents or other fees, whether they be for consultants or otherwise, shall be borne solely by the party which calls the witnesses or employs the attorneys or consultants.

The arbitrator's decision shall be binding upon the City, the Union, and the grievant. The authority of the arbitrator shall be subject to the following limitations:

- A. The arbitrator shall have no power to add to, delete from, or modify any of the terms of this contract. The arbitrator shall have no power to establish language for this agreement or to change any existing wage rates or fringe benefits.
- B. The arbitrator shall have no authority to impose any obligations upon the City unless required by provision of this contract.
- C. All findings and decisions for back pay by the arbitrator shall be limited to the amount of wages that the employee would have earned from the City of Youngstown had he not been disciplined, and the actual monetary damages suffered by reason of the discipline, set-off, if any, shall be in accordance with law.

Section 5. Arbitration Timelines. All initial requests for a FMCS panel shall be submitted to FMCS within thirty (30) calendar days of the grievance being submitted for arbitration or the grievance will be considered untimely.

Section 6. Right to Union Representation. A Union representative or the Union attorney may be present at each step in the grievance procedure.

ARTICLE 11 **DISCIPLINE**

Section 1. The tenure of every employee subject to the terms of this Agreement shall be during good behavior and efficient service. No employee shall be reduced in pay or position (including working suspensions), fined (i.e., forfeiture of accrued leave), suspended, discharged, or removed except for grounds stated in Section 2 of this article. The Employer may take disciplinary action against any employee in the bargaining unit for just cause. Forms of disciplinary action are:

- 1. Letter of instruction and cautioning.
- 2. Written reprimand.
- 3. Suspension without pay, at the option of the employee, and with concurrence of the Employer, accrued vacation or holiday time may be forfeited equal to the length of the suspension. Record of suspension will be maintained.
- 4. Suspension of record (i.e., paper suspension).
- 5. Fines (i.e., forfeiture of accrued leave).
- 6. Reduction in pay and rank.
- 7. Discharge.

An employee who is given a working suspension (i.e., suspension of record) shall be required to report to work to serve the suspension and shall be compensated at the regular rate of pay for hours worked. The working suspension shall be recorded in the employee's personnel file in the same manner as other disciplinary actions having the same effect as a suspension without pay for the purpose of recording disciplinary action.

The Employer shall initiate applicable disciplinary action within thirty (30) days of knowledge of the offense or completion of the investigation, as applicable.

Section 2. Violations of departmental rules, regulations, or SOPs, including but not limited to, incompetency, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, absence without leave, substance abuse, failure of good behavior, or any conduct unbecoming a representative of the Employer, or any other acts of misfeasance or malfeasance or nonfeasance, shall be cause for disciplinary action.

Section 3. Except in instances where an employee is charged with a serious offense, discipline will be applied in a corrective, progressive, and uniform manner in accordance with the Employer's policy. Progressive discipline shall take into account the nature of the violation, the employee's record of discipline, and the employee's record of conduct.

Section 4. Whenever the Employer determines that an employee may be suspended, reduced in pay and rank, or terminated, a predisciplinary meeting will be scheduled to investigate the matter. The Employer shall notify the employee and the Union in writing of the charges against the employee and what form of discipline may be imposed. This notification shall also include the time and place of a predisciplinary meeting, to be held with at least twenty-four (24) hours notice, between management and the employee.

The employee may be accompanied by a Union steward or officer during the predisciplinary meeting. Should the employee not wish to be represented by the Union, a Union Representative shall be allowed in the disciplinary meeting as an observer only. The employee shall have an opportunity in this meeting to respond orally to the charges prior to discipline being imposed. Any resolution to the disciplinary action by the employee and the Employer shall be consistent with the terms and provisions of this Agreement. An employee who is disciplined may file a grievance in accordance with the grievance procedure herein.

Section 5. Appealable disciplinary actions must be filed at the appropriate level of the grievance procedure within fourteen (14) calendar days from receipt of the notice of discipline by the employee. Disciplinary action not involving a loss in pay may be appealed through the grievance procedure, but are not subject to the arbitration procedure.

Section 6. Records of disciplinary action shall cease to have force and effect or be considered in future discipline matters, provided that there has been no other intervening discipline, according to the following schedule:

Letters of Instruction and Cautioning	twelve (12) months
Written Reprimands	twenty-four (24) months
Suspensions, Fines, and Reductions	thirty-six (36) months

Discipline for drug and alcohol-related offenses or violations of the parties' drug and alcohol testing policy are not subject to the twenty-four (24)/thirty-six (36) month provisions listed above and shall be considered in all future discipline for a period of ten (10) years.

ARTICLE 12 **PERSONNEL FILE**

Section 1. The City shall compile and maintain an official personnel file for each employee. This file shall be in the custody of the Fire Chief. The personnel file shall contain the name, address, social security number and other identifying information.

Section 2. Should a public records request for a personnel file be made, the City agrees to redact the employee's address and social security number.

Section 3. The employee shall have the right to inspect his file at any reasonable time in the presence of the Chief or his designee. No document shall be removed from the file without the consent of the Fire Chief.

Section 4. Copies of documents from the file shall be made available to the legal representative of the employee or through an authorized representative of the Union, upon the approval of the Fire Chief, which approval shall not be unreasonably denied.

Section 5. An employee shall have the right, after making a written request, to insert into his personnel file any legally proper material that he feels would tend to clarify statements made in documents in the file and to insert written counter statements as to those conclusions.

ARTICLE 13 **PROMOTIONS**

Section 1. Whenever the City determines that a vacancy in the promotional ranks exists, a request for a promotional appointment or a promotional examination, as applicable, will be submitted to the Civil Service Commission within fourteen (14) calendar days of such determination. After the list has been certified to the appointing authority, the employee ranking highest on the applicable list shall be appointed within fourteen (14) days. After such determination has been made and within ninety (90) days following the Fire Chief's request for examination, an examination for the vacancy shall be scheduled. In the event that a valid promotional list is due to expire, the Fire Chief shall notify the Civil Service Commission in writing of the need for an examination no less than 120 days before the promotional list expires. The Fire Chief shall send a copy of the written notice to the Union. It is the intent of the parties to prevail over R.C. 124.45-124.48 to the extent that this article is in conflict with those requirements. The following criteria shall be used to determine eligibility for bargaining unit members seeking to fill promotional vacancies:

- A. **Lieutenants.** Any employee must be a step six (6) employee as of the date of the promotional exam to be eligible to take the Lieutenant promotional exam.

- B. Inspector. An employee who is promoted/assigned to an Inspector position shall advance one (1) step on the salary/wage schedule (Appendix A), as provided below, and shall be required to remain in that assignment for a period of five (5) years, unless otherwise agreed to by the Fire Chief for a lesser period of time.

Investigators and Inspectors may also be filled by assignment of the Fire Chief. If there are no applicants for a promotional examination for Inspector, an involuntary assignment of the least senior employee shall be made. Any employee so assigned that is a step employee will be advanced one (1) pay step if and when that employee obtains State Certification for Inspector. Subsequent hiring of additional employees after an involuntary assignment shall not act as a waiver of the mandatory five (5) year requirement.

Any employee bidding or transferring out of inspection shall be required to relinquish the step advancement associated with entry into inspection or attainment of inspection certification.

A promoted or assigned Inspector must obtain Inspector certification within eighteen (18) months of the date of appointment in order to be qualified to retain the position. At the discretion of the Chief, a promoted or assigned employee may be returned to his former position if the certification is not timely obtained, without right of appeal, and provided he is qualified to perform the essential functions of the former position. A promoted or assigned employee not qualified to return to his former position or who fails to timely obtain the required certification may be terminated from employment without right of appeal.

- C. Chief Inspector. An employee must have one (1) year in rank as an Inspector to be eligible to take the exam for Chief Inspector under Section 4.
- D. Captain. A Lieutenant shall have a minimum of one (1) year in rank to be eligible to take the test for Captain. Additionally, an Inspector must first have served a minimum of one (1) year in the rank of Lieutenant in suppression to be eligible to take the exam for Captain.
- E. Chief Fire Investigator. Upon the departure of the current incumbent, the Chief Fire Investigator position shall be filled at the discretion of the Fire Chief pursuant to Section 4.
- F. Battalion Chief. An employee must have served one (1) year in the rank of Captain in the suppression division to be eligible to take the test.
- G. There shall be no practical testing for the Lieutenant's promotional examination. The City shall provide officer training for eligible candidates for Lieutenant and Battalion Chief within ninety (90) days of the certification of a new civil service promotional list.

Section 2. If a promotional eligibility list for a lower rank expires after the determination and declaration of a vacancy in the next higher rank, and prior to the completion of the examination/promotion process for the next highest rank, the expired list for the lower rank will be utilized once the promotion to the higher rank has occurred, and the Chief of Fire and the Mayor determine that a vacancy in the lower rank exists and is to be filled.

Section 3. Nothing herein shall preclude the Chief from being able to temporarily assign a firefighter to Inspection during any interim period where assistance within Inspection is determined necessary. Any firefighter so temporarily assigned shall not receive an increase in compensation but will remain eligible for call out for fire suppression services.

Section 4. Chief Inspector/Chief Investigator Promotion and Assignment. Upon the departure of the incumbent Chief Inspector and/or Chief Investigator, the parties agree to the following provisions relative to these positions.

If the position of Chief Investigator is filled by assignment from the Fire Chief, the pay rate will be calculated as follows: if filled by a Lieutenant, the pay rate to the assigned employee will be advanced one (1) pay grade to Captain rate; if filled by a top step fire fighter, the pay rate to the assigned employee will be advanced one (1) grade to Lieutenant's pay rate for a period of one (1) year. After one (1) year of continuous service in that position, the assigned employee will then be advanced to the Captain pay rate. If the position is filled by an employee, the employee will first be advanced to the Step 10 pay rate for a period of one (1) year, next to the Lieutenant pay rate for a period of three (3) years, and finally to the Captain pay rate following the completion of the three (3) year period referenced previously.

The Chief Inspector shall continue to be a tested position with a minimum of one (1) year as an Inspector as a prerequisite. However, if filled by a Lieutenant, the pay rate of the person occupying the position will be advanced one (1) pay grade to Captain's rate. If filled by a top step fire fighter, the pay rate to the assigned employee will be advanced one (1) grade to Lieutenant's pay rate for a period of one (1) year. After one (1) year of continuous service in that position, the assigned employee will then be advanced to the Captain pay rate. If the position is filled by an employee, the employee will first be advanced to the Step 10 pay rate for a period of one (1) year, next to the Lieutenant pay rate for a period of three (3) years, and finally to the Captain pay rate following the completion of the three (3) year period referenced previously.

ARTICLE 14 **TRANSFERS**

Section 1. The parties agree that the following procedure will be used to fill vacancies through transfers of existing personnel.

Section 2. Posting. The City shall post initial vacancies within fourteen (14) calendar days of occurrence for seven (7) calendar days. Resulting vacancies must be anticipated.

Section 3. Filling Vacancies. The City will fill vacancies, using the request for transfer form on file in the Fire Chief's office, with the senior qualified employee having preference not less than seven (7) days after the bid period. All newly promoted officers may be appointed to a company or unit at the discretion of the Chief.

Section 4. Changes in Hours. No employee shall have his hours of employment changed from forty (40) to fifty-one (51) or vice-versa more than once per year without mutual consent.

Section 5. Unrequested Change in Turns. Unrequested transfers between turns, including forty (40) hour employees, can only involve the least senior qualified employee(s).

Section 6. Operational Needs Transfers. Notwithstanding the procedure and limitations above, the Chief retains the right to transfer where:

- A. Special expertise, unsuitability or special needs of the department make an exception necessary.
- B. The employee has received any suspension during the previous twelve (12) months.

Section 7. Special Assignments. The assignment of personnel to special divisions, bureaus or units is left solely to the discretion of the Chief.

ARTICLE 15 **REDUCTION IN FORCE & RECALL**

Section 1. It is the intent of the parties, through this article, to establish an objective procedure by which a reduction in force may be accomplished, should the need arise, and supersede the provisions of ORC 124.321 to 124.328, 124.3, OAC 123: 1-41-01 to 123: 1-41-22, and all local rules and regulations of the City of Youngstown Municipal Civil Service Commission governing work force reductions.

Section 2. Notice. Whenever the Employer determines that a reduction in force (i.e., layoff or job abolishment) is necessary, the Employer shall notify the affected employee(s) in writing at least seven (7) calendar days prior to the date of the reduction.

Section 3. Procedure. When the Employer determines that a reduction in force or layoff is to be made within the force, it shall occur by classification seniority within the affected classification. Classification seniority is computed as the length of accumulated, uninterrupted, full-time service of an employee within a specific classification in which a reduction in force or layoff is to occur. The member with the least amount of classification seniority shall be laid off first.

A bargaining unit member residing in a higher classification (e.g., captain, lieutenant, etc.) may utilize his bargaining unit seniority to displace a member with less bargaining unit seniority residing in a lower classification. Bargaining unit seniority, for the purposes of reduction and recall, is calculated in accordance with Article 7 of this Agreement.

Section 4. Recall. A bargaining unit member in the classification of Firefighter that is laid off under this article shall remain on the layoff list for three (3) years. A bargaining unit member residing in higher classification (e.g., captain, lieutenant etc.) laid off in rank under this article shall remain on the layoff list indefinitely and shall be eligible for a recall for the duration of their employment with the city. When the employer determines that it wishes to recall laid off members of the bargaining unit, the City shall recall from that list in reverse order in which the member was laid off.

Employees shall be given fourteen (14) calendar days advance notice of recall and such notice shall be sent to the employee's last address on record. It shall be the responsibility of the employee(s) to keep the Employer advised of his current address and maintain any required licensure or certification required for their position. Employees who refuse recall shall lose all seniority and recall rights. Employees who fail to remain qualified to perform the duties of their position will lose all seniority and recall rights.

The City and the Union agree that this amendment to Article 15, Section 4 shall be applied retroactively to cover the nine (9) bargaining unit members that were laid off in rank on October 13, 2018. The following individuals shall have indefinite recall right as described above and shall be listed for (in order) at the top of the Captain recall list: Justin Quarles, Timothy Hrina, Courtney Kelly. The following individuals shall have indefinite recall rights as described above and shall be listed (in order) at the top of the Lieutenant recall list, Tommy Gibbs, Jr., Brian Charles, Jacob W. Emery, Jonathan Racco, Kyle Trimble, Dan Quayle.

ARTICLE 16 **WAGES & SALARIES**

Section 1. Rates of Pay. Wage rates for bargaining unit members are listed in Appendix A.

Effective the first full pay period following January 1, 2021, all bargaining unit members shall receive a one percent (1.0%) general wage increase. All retroactive pay adjustments are to be paid within thirty (30) days of the parties' execution of the 2020-2023 CBA.

Effective the first full pay period following January 1, 2022, all bargaining unit members shall receive a two percent (2.0%) general wage increase, except as set forth under Appendix A.

Effective the first full pay period following January 1, 2023, all bargaining unit members shall receive a two and one-half percent (2.5%) general wage increase, except as set forth under Appendix A.

ARTICLE 17 **INSURANCE BENEFITS**

Section 1. Health Insurance. The City of Youngstown shall continue to provide to each bargaining unit member and his family medical, hospitalization and prescription insurance coverages and benefits comparable to the summary of coverages and benefits attached hereto as Appendix E or as otherwise established by a health insurance review committee (HIRC).

Section 2. Vision/Dental Coverage. The City agrees to continue the program of providing single coverage for existing vision and dental insurance except that this benefit will be entirely funded and administered by the City, except as stated herein.

Section 3. Life/ADD Coverage. The City will continue the current life insurance (Travelers or comparable) of twenty thousand dollars (\$20,000) (active) and four thousand seven hundred fifty dollars (\$4,750) (retired).

The City agrees to continue to provide an additional accidental death and dismemberment insurance through the Police and Fire Fighters Insurance Association in the amount of thirty thousand dollars (\$30,000) for all active bargaining unit members.

The Union agrees to provide a bargaining unit member as an administrator of the accidental death and dismemberment insurance.

Section 4. Insurance Waiver. If any employee elects to refuse the coverage provided in Section 1, then that member shall be paid the premium saved by the City, not to exceed the amounts set forth below. Such election is contingent upon the employee documenting any and all existence of alternative health care coverage and executing a waiver of the City's group plan and further waiving any action for damages and reimbursement resulting from such election. Payment for those employees making such an election shall be one hundred and sixty-seven dollars and seventy-two cents (\$167.72) per month for the duration of this agreement, payable in monthly increments.

A bargaining unit employee whose spouse or parent works for the City shall not be eligible for this incentive. Employees and the City shall abide by all COBRA rules and regulations. Should the City policy regarding the payment of employees whose spouse or parent works for the City change, this change shall be incorporated as a part of the collective bargaining agreement.

Section 5. Employee Contributions. Employees shall contribute ten percent (10%) of the total premium for medical, hospitalization, prescription, vision, and dental coverage.

Section 6. The City shall designate a full-time employee to act as a liaison between the Union and any insurance carrier for all insurance, workers' compensation, and injured on duty pay.

Section 7. The Union acknowledges the Employer's right to determine to provide coverage through a selected insurance provider, a consortium, to self-insure, or to utilize a combination of the preceding.

The Union agrees that the City may create and maintain a health insurance review committee (HIRC) for the purpose of studying and recommending cost containment programs for medical, prescription, and dental coverages, reviewing usage, and recommending changes to the plan and benefit levels. Once created, the Union agrees to participate in the committee. The committee shall consist of one (1) representative from each of the bargaining units, one (1) non-bargaining unit employee, and a number of management representatives of the Employer equivalent to the total number of City bargaining unit representatives participating. The insurance committee shall have the authority to recommend alterations to the plan and benefit levels and/or recommend adjustments to coverage levels through majority vote.

Specifically, the committee may recommend any of the following options:

- A. To keep the same plan and/or benefit levels and pass on any cost increases to the parties consistent with the levels set forth in Section 5 of this article; or
- B. To change the plan and/or alter the benefit levels so that there is no increase in the cost of the plan; or

- C. To change the plan and/or alter the benefit levels to reduce or minimize the increase in the cost of the plan to be passed on to the parties.

Recommendations of the committee will not be unilaterally changed by the City. Recommendations of the committee and Employer actions to carry out those recommendations are final and shall not be subject to the grievance procedure. If, however, the committee makes no recommendation by April 15 or fifteen (15) calendar days prior to the plan expiration date, as applicable, for the following plan year, the City may unilaterally adjust the plan and benefit levels, and cost increases, if any, will be passed on to the parties consistent with the levels set forth in Section 5 of this article. Recommendations of the committee and Employer actions to carry out those recommendation, or actions of the Employer in the event that the committee fails to act, are final and shall not be subject to the grievance procedure.

Section 8. Each new firefighter will be provided a full and complete copy of the insurance policy. Within thirty (30) days of any change in carrier coverage, the City will also provide each firefighter with all such changes of coverage policy provisions.

ARTICLE 18 **INJURED ON DUTY (IOD) LEAVE**

Section 1. Injured on Duty leave may be granted to any employee who suffers an injury in the course and scope of City employment that is certified by the City as a work-related injury to the Bureau of Workers' Compensation or is subsequently allowed by the Bureau. Certification will not be unreasonably withheld by the City.

The employee shall be paid Injured on Duty (IOD) pay from the City instead of Temporary Total Benefits from the Bureau of Workers' Compensation but only if the employee obtains medical treatment from a schedule of providers designated by the City (Appendix C). An employee who chooses to seek treatment from a medical provider who is not included in the City's schedule of providers will not be entitled to IOD, but will be entitled to any benefits the Bureau of Workers' Compensation will allow. The City reserves the right to add or delete health providers from the City's schedule of providers.

Section 2. Procedure. An employee claiming to be injured on duty shall notify his immediate supervisor by the end of the employee's shift of an alleged work place injury which occurred during that shift in order for the City to consider certification of the alleged injury. The employee may report an injury without actually filing for IOD/Workers' Compensation for up to the time limits allowed by the Bureau of Workers' Compensation. Once an employee files for IOD/Workers' Compensation, IOD will not commence until all City required documentation is received by the City. Until such time, the employee will be continued on payroll with sick leave, vacation, or A/T for any time off duty. Such time will be reimbursed upon the City's grant of IOD pay. If such return of documents exceeds seven (7) calendar days, time will not be reimbursed unless a physician's cooperation or lack thereof makes such impracticable. The Employer shall have the responsibility to present necessary documentation to the employee at the time the injury is reported and the employee shall have the responsibility to ensure timely completion of this documentation.

Section 3. Continued Participation. Continued participation in the IOD program is dependent on the employee participating in an injury-related rehabilitation or return-to-work program. If, however, an employee files for temporary total or permanent total disability or is working elsewhere during the time the employee claims to be disabled from his City job, or is found to be performing tasks that are in conflict with the reported injury, all City benefits will immediately stop (including, but not limited to, the accumulation of sick, vacation or any other leave, eligibility for holiday pay and the Employer's contribution to the employee's pension fund).

Section 4. Eventual Denial of Claim. If, after a Bureau of Workers' Compensation determination or the administrative appeals process, whichever stage finalizes the process, it is found by the Bureau, the Industrial Commission, or a court that the claim is not related to the employee's City job, the employee must reimburse the City for all IOD used by any means available: accumulated sick leave, vacation, or regular biweekly pay deductions. The amount so used must be repaid within a twelve (12) month period.

Section 5. City Denial of Claim. If the City does not certify a claim, the employee will be permitted to use his sick leave or vacation leave, which shall be reimbursed if, after the Bureau determination or the administrative appeal process, whichever stage finalizes the process, it is found by the Bureau, Industrial Commission, or a court that the claim was incurred in the scope of City employment.

Section 6. Vocational Rehabilitation Program. Any employee granted IOD who is referred to a Bureau Vocational Rehabilitation Program will be required to apply for, attend, and fully cooperate with said program. Failure to fully cooperate with the Bureau Vocational Rehabilitation Program may result in loss of IOD benefits.

Section 7. Duration. Wages and all benefits, except sick leave as excluded by Article 22, Section 2, for those off duty on IOD will be continued for up to two thousand six hundred fifty-two (2,652) hours (suppression) or two thousand eighty (2,080) hours (non-suppression). These hours may be non-consecutive in a five (5) year period from the date of injury if all requirements above are met. After that period an employee unable to return to work can file for Workers' Compensation TT, but will not continue to be eligible for City benefits including sick or vacation accrual. Hospitalization benefits for an employee who has exhausted IOD but is unable to return to work will be continued for another six (6) months if the employee continues to provide the City with doctors' reports stating that he is unable to return to work at least one (1) time per month. After exhaustion of this six (6) month period, the City shall treat such as a "reduction of hours" Cobra-qualifying event and make necessary modifications to the employee under COBRA.

Employees on IOD must use their accumulated vacation as required by Article 24, Vacation. The employee's annual vacation usage will extend IOD by the amount of days equal to that allotment. This language does not require that vacation time be taken instead of IOD benefits except in those situations where an employee would otherwise not be able to take vacation within the year the employee is required to use it or lose it.

Section 8. False Claims/Abuse. The City reserves the right to recoup benefit payments to any employee who is guilty of submitting a false claim or abuse of the privilege covered in this article, or

working for another employer while on injury leave, and to take disciplinary action. Examples of what might constitute "abuse" as used in this section, include an employee's refusal to perform the duties associated with his light duty assignment, failure to comply with the terms outlined in this agreement, etc.

Section 9. Light Duty Work. If the employee is able to work in a light duty work assignment, the City may provide work within the Department, if available. An employee working in a light duty assignment will be compensated at his regular rate of pay. Upon an employee's resumption of his or her normal work duties, the affected employee's light duty work assignment shall be terminated. A light duty work assignment shall not exceed sixty (60) days, unless extended by the recommendation of the Fire Chief and approved by the Mayor and Law Director.

A light duty assignment shall not exceed four hundred eighty (480) hours for suppression or three hundred seventy-six (376) hours for non-suppression, unless extended by recommendation of the Fire Chief and approved by the Mayor and Law Director. Time spent working on a light duty assignment due to a work-related injury is counted toward the total amount of IOD payable under Section 7 of this article; however, the employee is able to accrue sick leave.

An employee cannot refuse to accept a light duty assignment. Only an employee's physician may provide evidence supporting an employee's inability to accept a light duty assignment. Upon receipt of such an opinion, the City reserves the right to send an employee for an independent medical examination at the City's expense. If the independent medical examiner determines the employee is able to participate in a light duty assignment, the City will make a determination as to the availability of an appropriate light duty assignment.

ARTICLE 19 **OCCUPATIONAL DISEASE**

Section 1. The City will re-credit up to sixty (60) days maximum use of sick leave if the occupational disease claim is allowed by the Bureau of Workers' Compensation after the exhaustion of appeals.

ARTICLE 20 **LIMITED DUTY**

Section 1. The City may provide limited duty, when requested, for employees who have physical limitations due to pregnancy, occupational disease, injuries, or illnesses. In order to be considered for a limited duty request in a non-work related injury situation, the employee must first have exhausted all available paid leave. Limited duty may be provided subject to the following conditions:

- A. The availability of limited duty and the ability of the employee to perform the limited duty shall be determined by the Fire Chief or his designee. In assessing the appropriateness/feasibility of such an assignment, the Fire Chief/designee will meet and confer with the labor/management committee. However, assignment shall be subject to the medical approval by the employee's physician and approval of the City's Risk Manager. Denial of such request is final and non-grievable.

- B. An employee who is on limited duty shall immediately notify the department when the employee is available for normal duty and shall give the department a physician's statement indicating that the employee may return to normal duty.
- C. While on limited duty, the employee may be required to undergo a medical review at the City's expense to determine the continued necessity of limited duty.
- D. Nothing in this article is intended to limit or restrict any rights the City or the employee may have under Workers' Compensation laws or under the IOD section of this Agreement. Additionally, where a light duty assignment is being considered for a case of occupational disease, the employee must provide documentation that he has made an application for disability pension within thirty (30) days of the request for light duty consideration.

ARTICLE 21

HOLIDAYS

Section 1. Designated Holidays. The holiday shall start at the beginning of the shift on that day and end twenty-four (24) hours later. Forty (40) hour employees shall celebrate holidays on the same day as City Hall employees. Suppression employees will follow the holidays as listed below:

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

The 11th holiday shall be:

- A. For 51.0-hour employees (suppression) - Christmas Eve
- B. For 40-hour employees (non-suppression) - Personal Day

Section 2. Holiday Pay Rate. Holiday pay shall be computed at the fifty-one (51.0) hour rate for suppression and at the forty (40) hour rate for non-suppression. An employee who works on a holiday shall receive his normal pay for that day, plus time and three quarters (1 3/4) for all hours worked.

If an employee who worked on the holiday calls off on sick leave the preceding or subsequent shift to a holiday, he shall be paid his normal pay for that day, plus time and one-half (1 1/2) at the fifty-one hour rate for all hours worked on that holiday.

Section 3. Holiday. An employee assigned to suppression, who does not work on his scheduled holiday, but receives his normal pay for that day shall receive twelve (12) additional hours of pay (i.e., holiday pay) at his normal rate of pay, except that an employee reporting off on sick leave on a holiday or the preceding or subsequent shift to a holiday shall not be eligible for the holiday pay.

Any employee assigned to suppression, who is scheduled on the preceding day before or the subsequent day after the holiday and who receives normal pay for that day, shall receive eight (8) hours additional pay at his normal rate of pay, except that an employee reporting off on sick leave on their preceding or subsequent shift to a holiday shall not be eligible for the holiday pay, and an employee reporting off on sick leave on their shift which precedes or follows the paid benefit day will not be eligible for the additional holiday pay.

Section 4. No Pyramiding of Holiday Premium Payments. An employee who is called to work overtime (eight [8] hours or more) on the shift before or after a holiday shall not also be entitled to the eight (8) hours of holiday pay.

Overtime call-out on a holiday will first be offered to those personnel that were scheduled off that day. They will be paid at time and three-quarters (1 3/4) of the fifty-one (51) hour rate. They are not also entitled to the twelve (12) hour pay. If no personnel that were scheduled off accept the overtime assignment, then the regular overtime roster will be utilized. The employee called from that list will be entitled to regular overtime pay.

Section 5. Holiday A/T Time. At the employee's option, the eight (8) or twelve (12) hour pay may be taken in pay or recorded as A/T time. Request to receive eight (8) or twelve (12) hours as A/T time must be made no later than the payroll cutoff date of the pay period in which the holiday occurs. A/T must be liquidated as time off no later than the calendar year following that in which it was earned. Choosing time off may be done any time after vacations for the year have been chosen and will conform to the same policies as that used for FLSA time.

ARTICLE 22 **SICK LEAVE**

Section 1. Accrual. Suppression shall accrue sick leave at the rate of 6.47 hours per pay, .0634 per hour, not to exceed 168.22 hours per calendar year from January 1 through December 31. Non-suppression shall accrue sick leave at the rate of 4.62 hours per pay, .0577 per hour, not to exceed fifteen (15) days per calendar year from January 1 through December 31. A conversion factor using equivalent hourly rates shall be used to convert sick leave accumulation when changing hours 51 to 40 or vice versa.

Section 2. On Sick/Unpaid Status. Employees may not earn sick leave while on sick leave, IOD, leave of absence, layoff, or off payroll. An employee on sick leave shall be considered as being on the payroll and entitled to all benefits thereof.

Section 3. Maximum Accumulation. Sick leave may be accumulated without limit.

Section 4. Rate of Pay. Sick leave compensation shall be computed at the employee's normal daily or hourly rate at the time absence occurs.

Section 5. Patterned Absence/Abuse. Any employee suspected of abusing sick leave and/or showing a pattern of abuse shall be subject to counseling by the Chief or his designee. Pattern abuse consists of, but is not limited to, absence while on sick leave as evidenced by a frequency or pattern

contiguous with or related to holidays, weekends, reduced hour days, vacation days and/or consistent regular usage, or a method of usage of available sick leave. If suspected abuse/pattern continues after the counseling session, the employee will be subject to disciplinary action.

Section 6. Documentation. The Fire Chief may require an employee to furnish a satisfactory written, signed statement to justify the use of sick leave. If medical attention is required, a certificate stating the nature of the illness from a licensed physician shall be required to justify the use of sick leave. Falsification of either a written signed statement or a physician's certificate shall be grounds for disciplinary action, including dismissal.

Section 7. Insufficient Leave. An employee with less than the required minimum number of accrued sick leave hours shall not be paid sick leave without a signed doctor's certificate unless authorization by the Chief.

Section 8. Sick Leave Transfer. Employees hired in the Fire Department on or after September 1, 2008, will not be permitted to transfer any sick leave they accrued during any public employment, other than during prior employment with the City of Youngstown.

Section 9. Non-Use of Sick Leave. The City desires to establish an incentive for employees not to abuse sick leave. Therefore, for each quarter in which an employee does not use his sick leave and maintains a minimum of three hundred twelve (312) hours for suppression or one hundred twenty (120) hours for non-suppression, he shall be entitled to a bonus of one hundred fifty-nine dollars (\$159.00). Quarters are measured in the following monthly increments, January through March, April through June, July through September, and October through December.

The minimum hours requirement for the bonus shall not apply to employees in their first and second year.

The cash bonus for non-use of sick leave is not proratable for severance purposes under any circumstances. If an employee is on leave of any kind for an entire quarter, they are not eligible for non-use of sick bonus for that quarter. An employee otherwise eligible and on IOD for two (2) work shifts or less (per occurrence) within a quarter will remain eligible for that quarter.

Section 10. Bonus Payment Conditions. The payment for non-use of sick leave will be made in the last quarter of the year. An employee who uses sick leave after receiving the bonus shall have the amount of the bonus deducted from his following pay. Any employee disciplined for AWOL shall forfeit the non-use of sick leave bonus for the quarter.

Section 11. Personal Days. Non-probationary suppression bargaining unit employees shall be permitted to utilize twenty-four (24) hours of sick leave as personal time per calendar year; time may be utilized in eight (8), twelve (12), or twenty-four (24) hour increments. Non-probationary non-suppression bargaining unit employees shall be permitted to utilize two sick leave days (sixteen [16] hours) as personal time per calendar year; time may be utilized in four (4) or eight (8) hour increments. The time will be deducted from the employee's sick leave balance. Such usage shall not be counted against the employee's sick leave bonus eligibility, but shall not be permitted to be used the regular shift before, on if applicable, and after a recognized holiday.

Any bargaining unit member who utilizes this benefit shall accrue their normal sick leave accrual while on this type of leave.

"Non-probationary bargaining unit employee" as used herein shall mean an employee who has successfully completed the initial one (1) year probationary period. Upon successful completion of the initial probationary period, the employee may use sick leave as personal time on a pro-rated basis in consideration of the full months remaining in the calendar year.

Section 12. Personal Time Scheduling/Eligibility. Permission for the use of sick leave as personal time must be requested at least seventy-two (72) hours in advance. Approval/denial of requests is subject to the operational needs of the Employer.

ARTICLE 23 **ATTENDANCE/SAFETY INCENTIVE PROGRAM**

Section 1. Purpose/Scope. In order to promote safety in the workplace, decrease the amount of preventable sick leave usage, and reduce IOD/Workers' Compensation claims, the City will offer to bargaining unit members a leave conversion program as set forth below. The City will evaluate the effectiveness of this program, and should it determine that the program is not achieving the desired results, the City may, at its sole discretion, discontinue the program.

Discontinuation of the program shall be made in writing to Local 312 officials no later than March 31st of the benefit year.

Section 2. Participation Criteria. Bargaining unit members assigned to suppression are eligible to participate in this program provided that they maintain a minimum balance of one thousand (1,000) hours of sick leave. Bargaining unit members assigned to non-suppression are required to maintain a minimum balance of seven hundred fourteen and four-tenths (714.4) hours of sick leave. "Balance" is what an employee has as of December 31 of the program year.

These minimum balances must be maintained in order to qualify for program participation. The conversion of sick leave under this program may not exceed the maximum amounts set forth below or reduce the participant's balance below the minimum amounts described previously. Conversion of sick leave under this program is to be done in minimum increments of one (1) hour.

Section 3. Conversion/Liquidation Options. An employee who satisfies the criteria for participation and achieves the following goals may convert a maximum of one hundred two (102) hours of sick leave annually utilizing any combination of the following options:

- A. A suppression employee who utilizes no sick leave during a calendar year (January 1-December 31) may liquidate up to thirty-four (34) hours of sick leave at the rate of fifty percent (50%) of his current hourly rate. A non-suppression employee who utilizes no sick leave during a calendar year (January 1-December 31) may liquidate up to twenty-seven (27) hours of sick leave at the rate of fifty percent (50%) of his current hourly rate.

- B. A suppression employee who has no lost time due to a work-related injury claim (IOD) during a calendar year (January 1-December 31) may liquidate up to thirty-four (34) hours of sick leave at a rate of fifty percent (50%) of his current hourly rate. A non-suppression employee who has no lost time due to a work-related injury claim (IOD) during a calendar year (January 1-December 31) may liquidate up to twenty-seven (27) hours of sick leave at a rate of fifty percent (50%) of his current hourly rate.
- C. A suppression employee who does not file a claim for workers' compensation during a calendar year (January 1-December 31), in connection with a current incident or a previous/pre-existing claim or condition, may liquidate up to thirty-four (34) hours of sick leave at a rate of fifty percent (50%) of his current hourly rate. A non-suppression employee who does not file a claim for workers' compensation during a calendar year (January 1-December 31), in connection with a current incident or a previous/pre-existing claim or condition, may liquidate up to twenty-seven (27) hours of sick leave at a rate of fifty percent (50%) of his current hourly rate. An employee that has a one-time only, medical only, treat and release claim may still receive this benefit. If an employee files further medical after this benefit is paid, they shall become ineligible for the benefit of section 2(c) for the next year.

Section 4. Payment Maximum/Schedule. The combined amount of sick leave that may be converted shall not exceed one hundred two (102) hours for any given year. Payment will be made during the first quarter following the year in which the employee participated in the program. The parties agree that the first payout will be during the first quarter of 2010 for the 2009 benefit year.

ARTICLE 24 **VACATION**

Section 1. The length of vacation is determined by an employee's employment anniversary date. This employment anniversary date is determined by the public service of said employee with the City as currently defined in the statutes of Ohio, specifically Ohio Revised Code, Section 9.44, as amended on October 25, 1995. There will be no retroactive adjustments. Each full-time employee shall earn and be granted paid vacation dependent upon the employee earning and accruing such vacation time:

<u>Years of Service</u>	<u>Weeks</u>	<u>Hours (51-hour Schedule)</u>	<u>Hours (40-hour Schedule)</u>
After completion of one (1) year	2	112	80
After completion of five (5) years	3	168	120
After completion of eleven (11) years	4	224	160
After completion of seventeen (17) years	5	280	200
After completion of twenty-three (23) years	6	336	240

Section 2. Vacation Balance. The City will continue to utilize a "use-it-or-lose-it" vacation policy. In conformity with current practice, a firefighter must complete one (1) year of service before being eligible for vacation leave. Upon completion of this one year of service, the firefighter will be

entitled to utilize a pro-rated amount of vacation from the anniversary date until December 31 of the first anniversary year. This prorated amount will be determined by the vacation hours earned from the firefighter's date of hire to December 31 of the initial hire year. Effective January 1 of the next year, the firefighter will be eligible to take the earned amount of vacation as outlined in Section 1 of this article.

Section 3. Vacation Pay. For each week of vacation, the eligible employee shall receive his normal week's pay according to his regular pay scale at the start of the vacation. By agreement between the City and the employee involved, vacation benefits may be liquidated in cash.

Section 4. Scheduling. For scheduling purposes in suppression only, a week will be determined as fifty-six (56) hours per week or seven (7) consecutive calendar days. Each division, bureau or unit shall use bargaining unit seniority for selection of vacation time.

Section 5. Operational Need Denials/Adjustments. The City reserves the right to amend the vacation schedule to ensure the orderly operation of the Department.

Section 6. Transfers. Employees requesting transfer shall accept available vacation periods. Involuntary transfers will not affect vacation selections.

Section 7. Final Year of Employment. Employees in their last year of employment will earn the vacation for that year prorated to date of separation.

Section 8. Illness/Injury During Vacation Period. An employee who is off work and under a doctor's care for extended sickness or injury may have his vacation rescheduled if his vacation was scheduled to begin before he is able to return to work. This request must be in writing and submitted before the start of the vacation period.

ARTICLE 25 **BEREAVEMENT LEAVE**

Section 1. Full-time employees shall be eligible for bereavement leave in the event of a death of: a spouse, child (natural or adopted), step-child of current marriage, father, mother, brother, sister, father-in-law, mother-in-law, grandparent, grandchild, brother-in-law, or sister-in-law.

In the case of a grandparent of an employee's spouse, that employee may use up to twelve (12) hours of their sick, vacation, or other accumulated time as time off without penalty to any attendance benefits.

Section 2. Employees assigned to non-suppression duties shall be allowed three (3) scheduled duty days per occurrence. Employees assigned to suppression duties shall be allowed one (1) scheduled duty day per occurrence.

Section 3. Bereavement leave shall only apply when the funeral services, including calling hours, fall on the regularly scheduled days, to be expandable through the use of vacation or A/T upon approval of the Fire Chief.

Section 4. Any employee on vacation or R/H time who is notified of a death in his family for whom bereavement leave may be granted, can apply and receive bereavement leave for the authorized period without the necessity of using his vacation or R/H time for said bereavement.

ARTICLE 26
MATERNITY/PATERNITY LEAVE

Section 1. An employee may, at the discretion of the City, be granted a leave of absence without pay for purposes of child care. Any request must follow the rules contained within the Rules and Regulations of the Youngstown Civil Service Commission or the City's family medical leave (FMLA) policy.

Section 2. Non-Discrimination. All requests for leave of absence without pay for purposes of child care shall be considered on a non-discriminatory basis without regard to the sex of the employee. An adoptive parent's request for leave of absence for purposes of child care shall be considered on the same basis as that of a biological parent under similar circumstances.

Section 3. Substitution of Paid Leave. An employee may request to have leave of absence charged to his sick leave, vacation, reduced hour, accumulated time or without pay.

ARTICLE 27
MILITARY LEAVE

Military leave will be granted pursuant to Ohio Revised Code, Section 5923.05.

ARTICLE 28
HONOR GUARD

Section 1. For every Honor Guard detail that the Chief designates in writing prior to such detail assignment, any Honor Guard member who participates in such detail assignment shall be allowed to accumulate time on the basis of four (4) hours per detail, unless otherwise allowed by the Fire Chief.

Section 2. When assigned by the Fire Chief, any Honor Guard member who engages in Honor Guard detail, either within or outside of the City, shall be considered to have "on duty" status for purposes of Workers' Compensation only.

ARTICLE 29
LONGEVITY

Section 1. Eligibility. All bargaining unit employees hired on or after September 1, 2001, who have completed not less than three (3) full years of service with the City, shall be granted longevity. The longevity fringe benefit remains as provided in Youngstown Codified Ordinance Section 163.30, as amended.

After three (3) years of service	\$65.00 per year completed
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Section 2. Any bargaining unit member who is off the payroll and is receiving Workers' Compensation benefits due to a job-related injury, and was ineligible for IOD due to the three hundred sixty-five (365) days or five (5) year timelines, will not lose their longevity pay for that year.

ARTICLE 30 **HAZARDOUS DUTY PAY**

Section 1. The hazardous duty pay benefit will be as set out in Youngstown Codified Ordinance Section 163.31, as amended, except that payment will be made in January of the given year, and such yearly increment will be eight hundred and five dollars (\$805.00). Effective January 1, 2020, the yearly increment shall be eight hundred and twenty dollars (\$820.00).

ARTICLE 31 **UNIFORM ALLOWANCE**

Section 1. Amount. Each member shall receive an annual uniform allowance in April of each calendar year in the amount of one thousand one hundred dollars (\$1,100) for calendar year 2021, one thousand one hundred fifty dollars (\$1,150) for calendar year 2022, and one thousand two hundred dollars (\$1,200) for calendar year 2023. Bargaining unit members who quit or are terminated for cause shall be only entitled to a prorated payment for uniform allowance. Any overpayment will be deducted from their overall severance.

Section 2. Last Year of Service. Any payment of severance in the last year of this contract will assume the last contract year value amounts for this benefit. It is agreed by the parties that the earning period for uniform allowances is the year in which it is paid. Proration for those retiring will be from January 1 to the date of resignation. For those who retire after the April uniform allowance, any overpayment will be deducted from their overall severance.

Section 3. New Hires. For those in their first year of employment, the uniform allowance will be prorated from the date of hire to December 31 of that year. An additional \$800 will be provided to newly hired employees along with the prorated amount for initial clothing and gear purchases.

Section 4. Turn-Out Gear. The City will provide one (1) bunker coat and one (1) bunker pant for each new employee. The employee is responsible for the proper care and maintenance of the bunker gear and for the proper repair of such gear except when damage is due to extraordinary circumstances (e.g., hazardous material contamination) as determined by the Fire Chief.

The City will replace up to one (1) bunker coat and up to one (1) bunker pant for an employee whose current gear is determined by the Fire Chief to be unsafe for service.

Any gear purchased by the City shall remain the property of the City and must be cared for as such and surrendered to the City upon retirement or separation from service. Such gear, if in usable condition, may be utilized for another employee in need of gear under this clause.

ARTICLE 32
EDUCATION INCENTIVE/REQUIREMENTS

Section 1. Certification Incentive. The City shall pay an annual incentive to those members assigned by the Fire Chief and functioning in the following state certified capacity. It shall be the employee's responsibility to maintain his certification. Where a bargaining unit member achieves such certification and begins functioning in that capacity during the course of a calendar year, the bonus shall be prorated and paid out in January of the following year.

Section 2. Recognized Certifications. Below are the recognized certifications and corresponding payment amounts offered by the City.

\$1,000	OPOTA (Ohio Police Officers Training Academy)
\$1,000	Level II Arson
\$1,000	Advanced Code Enforcement
\$500	Instructor
\$500	Underground Storage Tanks
\$500	College Degree in fire-related field
\$500	Juvenile Firesetter Certificate
\$500	Fire Inspector Certification
\$500	Plan Review Certificate

Section 3. Maximum Payment. The stacking of certification bonuses shall be limited to \$3,000 maximum.

Section 4. Education/Training Expenses. The City will budget each year not less than seven thousand five hundred dollars (\$7,500) to be dedicated to employee training. The amount of reimbursement shall be the cost to the employee for tuition and books for the course, but shall not exceed \$500 for any employee in a calendar year. In order to qualify for the reimbursement, the employee must have pre-approval by the Fire Chief before the course is taken, satisfactory completion of the course (grade of C or better), and submission of all class materials and/or a synopsis of lessons learned to the training division. Any employee utilizing this benefit does so on his own time. Exchange of work days or use of vacation or other accumulated time may be allowed with prior approval of the Fire Chief.

Certification, continuing education, and seminars for EMTs and Paramedics are not included in the above. It is the employee's sole responsibility to maintain EMT/Paramedic certification to qualify for the bonus.

Section 5. EMT/Paramedic Bonus. Employees who continuously maintain certification as an EMT or Paramedic shall be eligible for an annual certification/continuing education bonus of \$200/EMT and \$300/Paramedic. It shall be the sole responsibility of the employee to obtain and maintain his certification as well as to show proof to the City each January 1 that they have a current valid certification. Failure to maintain, show proof, or not being certified at time of payment will cause the employee to be ineligible for the bonus. For those who achieve a new certification during the year, the bonus shall be prorated from the date of certification to December 31 of that year. The first payment shall be made in January 2010.

Section 6. Training Coordinators. There shall be no less than one (1) person assigned to each shift and daylight to be designated as Training Coordinators. The Battalion Chief assigned to training will utilize personnel who are receiving Fire Instructor Bonus pay (above section 2) as coordinators. Only if a certified instructor does not exist will the Training Chief assign such duty to another person. Only then will that person receive one (1) paid shift off per year in lieu of a bonus.

The Training Chief shall be responsible for the coordination of uniform training of all employees, as well as direct and maintain status of each employee's state mandated continuing education. (Company officers shall continue to be charged with entering performing company level training and recording such into the departmental data base.)

The Training Chief shall meet with Training Coordinators as a group every other month to ensure uniformity in training and may delegate work to them as necessary with the permission of the Fire Chief.

ARTICLE 33 **ON-CALL**

Section 1. Bargaining unit members assigned to be on-call are expected to be available to respond if called out, within a reasonable proximity so that response will be prompt, and fit for duty during all on-call periods. Failure to respond when on-call will subject an employee to discipline. The on-call investigator will be provided with a City vehicle to take home if the investigator lives within the City or a contiguous City or township.

Employees assigned to the Investigations Unit and the Inspection Bureau shall rotate on-call duty provided they are qualified.

Section 2. An employee required to be on-call shall receive eighty-three dollars and eighty-six cents (\$83.86) during each week that they serve in an on-call capacity. Effective the first full pay period following ratification, the increment shall be ninety-one dollars (\$91.00).

Payment of the above listed on-call pay is subject to the bargaining unit member's adherence to the requirements of Section 1.

ARTICLE 34 **CELL PHONES**

Section 1. The Chief may require that certain employees be available by cell phone while on duty or on call. For those employees so designated, the City agrees to reimburse twenty dollars (\$20.00) per month for the use and maintenance of their private cell phone.

Section 2. This reimbursement shall replace the issuance of City-owned cell phones. Employees are expected to maintain such phones in good working order, ensure that they are properly charged, and promptly return any calls if contacted. Failure to do so shall require the employee to be issued a city-owned cell phone and they shall not be eligible for this benefit.

ARTICLE 35
JURY DUTY

Section 1. Any employee while serving as a juror on a duty day shall receive full pay and benefits from the City and shall reimburse to the City any pay received from the courts. If not reimbursed to the City within thirty (30) days, the City will deduct the amount from the employee's next pay and the employee may be subject to discipline.

ARTICLE 36
COMPENSATORY TIME (FLSA)

Section 1. Definition. FLSA compensatory time is time earned in lieu of cash payments for work that is considered to be overtime under the F.L.S.A. Compensatory time is earned at time and one half (1 1/2) and banked at straight time.

Section 2. Maximum Accrual. The maximum amount of compensatory time off which may be accrued by an employee is 480 hours. Additional F.L.S.A. compensatory time beyond four hundred eighty (480) hours must be liquidated in cash.

Section 3. Usage/Conversion. An employee who has accrued compensatory time off "shall be permitted to use such time off" within a reasonable period after making the request. The City may deny such request only if it would unduly disrupt the operations of the department.

An employee may choose to liquidate in cash any FLSA time earned in the most recently completed cycle. Such time will be liquidated at the employee's current hourly rate. The employee shall be required to request payment in writing before the end of the first payroll cut-off that follows the cycle that time is being liquidated for.

ARTICLE 37
ACCUMULATED TIME (NON-FLSA)

Section 1. Employees may bank up to two hundred (200) hours (fire suppression) of accumulated time. Effective January 1, 2022, employees may bank up to two-hundred fifty (250) hours (fire suppression) of accumulated time. Effective January 1, 2023, employees may bank up to three hundred (300) hours (fire suppression) of accumulated time. No employee will have the right to accumulate any "accumulated time" in excess of the existing cap. Extra time worked beyond the existing cap shall be paid in the pay period in which they are worked.

All other compensatory time not otherwise liquidated shall be liquidated as determined by the Chief and the employee as follows:

- A. The employee may take additional vacation as allowed by the Chief. Such additional vacation shall be scheduled after the department's annual scheduling of regular vacation.
- B. With at least sixty (60) days advance notice, the employee may draw from his bank and take the time off until retirement.

C. To be liquidated by any other plan agreed to by the City and the employee.

All accumulated time remaining at permanent separation from service shall be paid out at one hundred percent (100%) (at the then current hourly rate at time of separation).

Section 2. Court A/T. An employee who is required to appear in court as a witness on a matter of official duty outside of his normal working hours shall receive a minimum of four (4) hours overtime or accumulated time at the employee's option.

ARTICLE 38 **RETIREMENT**

Section 1. Upon retirement, death prior to retirement, or termination of City employment for any reason, the City shall pay to the employee or his beneficiary the full value of the employee's accumulated time (A/T), compensatory time, vacation time and thirty-five percent (35%) of the value of accumulated sick time. Benefits shall be paid at the employee's current salary or the salary at the time the benefit was accrued, whichever is greater. The proper designation of the beneficiary shall be made on the forms provided by the City.

Section 2. Death in the Line of Duty. In the event an employee dies in the course and scope of his employment, as defined by the Public Safety Officers Benefits (PSOB) Act guidelines, his beneficiary or his estate shall receive one hundred percent (100%) of his accumulated sick leave, in addition to all other A/T or vacation time earned as set forth above.

Section 3. Service Badge. An employee who retires with fifteen (15) or more years of service will receive his duty badge.

Section 4. Duty Weapon. Each employee with a minimum of fifteen (15) years of service in the Department and who has served five (5) years in the Investigations Unit shall have the option to purchase his duty weapon for the sum of one dollar (\$1.00).

Section 5. Payment of Severance Benefits. Payment of benefits in the final year of the agreement (i.e., longevity, hazardous duty pay, clothing, etc.) will be at the rate of the final contract year.

Section 6. Periodic Separation Payments. A firefighter who has twenty-two (22) years of service with the City and declares his intention to retire to the City may, in the three (3) years preceding retirement, elect to receive payment for his accumulated leave due under Section 1 in three (3) equal payments in May of each year (i.e., one third [1/3] accumulation each year). In order to exercise this option, the employee must notify the Employer of his desire to receive payment prior to November 1 of the year preceding the first year of payment. Thereafter, payments shall be made in the form of a lump sum for three (3) successive years with the final payment being made at the time the employee retires.

ARTICLE 39
PENSION PICKUP

The City shall continue its pension pick-up policy on behalf of all bargaining unit members. The pension pickup plan will bypass federal and state income taxation.

ARTICLE 40
AIR PACK DETAIL

Section 1. Bargaining unit members will be selected for Air Pack Repair detail. Members will be assigned by the Fire Chief.

Section 2. Training. Employees serving on the Air Pack Repair detail will receive training and certification at the City's expense. Bargaining unit members assigned to the Air Pack detail will have the opportunity to earn up to forty-eight (48) hours of A/T time per year. Pre-approved off-duty training will also be compensated in the form of A/T time.

ARTICLE 41
FIREWATCH

Section 1. Persons assigned by the Fire Chief to the Firewatch Program will be given A/T time at time and one-half (1 1/2) for hours spent with program participants after normal business hours. Firewatch instructors will coordinate and have activities pre-approved with the Fire Chief/designee no less than forty-eight (48) hours in advance of the Firewatch programs to be eligible for A/T Time.

ARTICLE 42
HOURS OF WORK

Section 1. Suppression Work Hours. Employees assigned to suppression shall work 0800 to 0800 hours. Chief Officers assigned to suppression shall work 0730 to 0730 hours.

Section 2. Work Day. The normal work day for suppression shall consist of twenty-four (24) consecutive hours on duty followed by forty-eight (48) consecutive hours off duty. The normal workday for non-suppression duties shall consist of eight (8) consecutive hours in a twenty-four (24)-hour period or as assigned by the Chief.

Section 3. Workweek. The twenty-four (24) consecutive hours on duty/forty-eight (48) consecutive hours off duty, creates a scheduled average fifty-six (56) hour workweek. This average workweek shall be reduced to a fifty-one (51) hour workweek as defined in Section 4. The normal week for those personnel assigned to non-suppression shall be made up of five (5) eight (8) hour days in a seven (7) day period.

Section 4. Work Period. The work period cycle will continue to be two hundred twelve (212) hours in a twenty-eight (28) day cycle.

Each employee in suppression will accumulate 10.15 hours per pay period for the purposes of Reduced Hour (R/H) Time. Such time is not accumulated if the employee is off the payroll (i.e., not receiving a pay check). An employee absent due to illness, injury, or in unpaid leave status shall forfeit one (1) R/H day for each thirty-four (34) consecutive calendar days he is absent from duty.

Section 5. Required Scheduling (Suppression). The reduced hours will be taken in increments of one (1) twenty-four (24)-hour tour every twenty-eight (28) day cycle up to the eleven (11) days available. All employees assigned to suppression will be required to schedule no less than one (1) vacation or one (1) R/H day off in any cycle unless otherwise allowed by the Fire Chief.

If anything in Section 4 is found to be illegal by the Department of Labor, after all the appeals have been exhausted, then the work period shall revert back to the twenty-eight (28)-day cycle.

ARTICLE 43 **OVERTIME**

Section 1. Rate. The overtime rate shall be computed on an hourly rate arrived at on the basis of a forty (40)-hour work week. Employees shall receive one and one half (1 1/2) times their hourly rate (based on forty (40) hours) for each hour or substantial fraction thereof which he works in excess of his normal work day or workweek.

Section 2. Call-Out. Overtime pay will be paid from the beginning of the shift or at the time the employee is called once the shift has started, provided the employee reports to the duty station within thirty (30) minutes after being called. An employee assigned to suppression called in for overtime work shall be paid at least a four (4) hour minimum at the overtime rate of pay. An employee assigned to a 40-hour shift called in for overtime work shall be paid at least a two (2) hour minimum at the overtime rate of pay irrespective of whether or not they are required to work the entire time.

The aforementioned four (4) hour minimum shall not apply to employees:

- A. Held over following the termination of their regular shift.
- B. Required to attend departmental meetings on their off-duty time (paid only for actual time spent in meetings).
- C. Who elect to leave when work is done if the time worked is less than four (4) hours. In that event, overtime pay shall only be paid for actual time worked.
- D. Called prior to the start of his scheduled shift. In that event, overtime pay shall only be paid for actual time worked prior to the shift.

Section 3. Rounding. Pay shall be computed to the nearest tenth of an hour (three-tenths hour minimum).

Section 4. When an employee is held over beyond a regular shift because of tardiness of an oncoming employee, the tardy employee shall forfeit pay equivalent to that paid to the held-over

employee because of said tardiness. There may be exceptions to the above provided a legitimate excuse is submitted and accepted.

Employees shall have the option of receiving their overtime pay in cash or A/T time up to the limits allotted by law.

Section 5. Opportunities. The opportunity for overtime shall be rotated amongst all employees within their divisions by bargaining unit seniority. Bargaining unit seniority will generally be used as the basis for overtime call-outs. The Union agrees that there may be occasion where seniority may not be followed due to unusual circumstances. These occasions should be the exception rather than the rule.

Section 6. Return to Duty Requirement. Employees who have been on sick leave or suspension must have reported back to active status and worked one (1) scheduled day or have one (1) duty day (vacation, R/H) elapsed to be eligible for overtime.

ARTICLE 44 **OUT OF CLASS PAY**

Section 1. An employee assigned by the Fire Chief or his designee's order to the duties and responsibilities of a higher rank shall be paid at the higher rank rate for that period. No employee is to be assigned the duties of a higher rate except by the Fire Chief or his designee. A period is defined as the hours that the employee is on duty working in the higher classification.

Section 2. No employee shall receive the Fire Chief's rate.

For payroll purposes out of rank hours for an entire pay period shall be adjusted as follows:

96 hours = 102.0 hours
120 hours = 102.0 hours

Section 3. Acting Lieutenant Service Requirement. The rate of pay differential for firefighters working as lieutenants shall not exceed that of a top step firefighter and a lieutenant.

Section 4. Minimum Time Required for Differential Pay. Out of rank shall not be paid for step ups of less than four (4) hours in suppression or one (1) hour in non-suppression. If the employee works more than the four (4) hours or one (1) hour, he will be paid as outlined above for all hours worked.

Section 5. When the Fire Chief is absent, the most senior, off-duty Battalion Chief shall assume the Fire Chief's responsibilities (but shall not assume administrative duties) and be compensated for it in the amount of eight (8) AT hours per twenty-four (24) hour shift or prorated amount if less than a twenty-four (24) hour shift.

ARTICLE 45
PHYSICAL FITNESS

Section 1. The Union will establish and maintain a Physical Fitness Incentive Program to reward employees for physical fitness achievements. The City also agrees to maintain all City-owned health equipment.

Section 2. Physical Performance Evaluations. Voluntary physical agility evaluations shall be conducted in typical fire ground evaluations in accordance with the standards and procedures developed by the department's Safety Officer with Chief's approval. These evaluations shall be for the purpose of assessing the employee's ability to perform his duties with average efficiency. Incentives may be offered by the Fire Chief with Law Department approval. Employees who are participating in the physical fitness evaluation shall be covered for any injury incurred as a result of the evaluation by the City's workers' compensation program.

Section 3. Fitness Fee for Non-Suppression Employees. Each non-suppression employee will be reimbursed one hundred forty-seven dollars and thirty-nine cents (\$147.39) per year for such employee's membership in the Youngstown YMCA upon presentation of proper documentation.

ARTICLE 46
DRIVER'S LICENSE

Section 1. No employee may operate any City-owned vehicle or private vehicle on City business without an unrestricted operator's license required for the particular type of equipment operated. Employees who have court granted waivers to drive to, from or at work while they are under suspension may not operate City equipment regardless of any court exemption. Restrictions for medical reasons (e. g., eyeglasses) are not subject to this policy.

Section 2. Employees must notify their immediate supervisor of any driving restriction no later than the next business or duty day after the restriction is imposed. The supervisor is required to inform the Fire Chief through the proper chain of command. An employee's failure to notify the City of said restriction shall subject the employee to disciplinary action.

Section 3. The department will accommodate employees on driving restrictions or suspension for a period of one hundred eighty (180) days provided, however, if the employee cannot perform his regular duties (driving) he must forfeit the difference in pay through monetary fringes such as R/H, vacation, sick leave at 35%, A/T (to be elected by the employee), or be demoted for the period of suspension or revocation.

ARTICLE 47
DRUG TESTING / EMPLOYEE ASSISTANCE PROGRAM

Section 1. The Drug and Alcohol Testing Program described in Appendix B shall apply to all fire personnel. Appendix B is attached to this contract and made a part hereof, as if fully rewritten herein. The parties agree that all bargaining unit employees will be subject to reasonable suspicion and random drug and alcohol screening.

Section 2. Failure to comply with the intent or provisions in Appendix B may be used as grounds for disciplinary action. An employee who refuses to take the drug test shall be terminated from employment. Such termination is non-grievable and non-appealable.

Section 3. The involvement in the crash of a City-owned vehicle or its equipment or the causing of another vehicle to crash may trigger a drug test.

Section 4. Employee Assistance Program. The City and the Union will participate in an employee assistance program with a joint objective of retaining valued, skilled employees and assisting them in restoring their productive lives.

ARTICLE 48 **MAINTENANCE OF EQUIPMENT & QUARTERS**

Section 1. Equipment. It shall be the duty of each employee having custody of any equipment and property of the City to see that it is properly cared for and maintained in a clean condition and that it is returned to its proper place for storage after use. The City agrees to provide furnishings and will reimburse the cost of, up to five hundred dollars (\$500.00), for the main lounge area TV/VCR/DVD at each station if current equipment fails beyond repair.

Section 2. Quarters. Employees shall continue to do all work necessary for routine building and ground maintenance, including spring cleaning (wall washing where applicable). Employees may request permission to perform approved work and projects which will be of benefit to their working or living conditions within the station to which they are assigned.

Section 3. Employees shall be permitted to bring their personal vehicles into the station, where applicable, after 1630 hours on weekdays, after 1200 hours on Saturdays, and anytime on Sundays and holidays. This privilege is contingent upon the employee signing a liability waiver releasing the Employer for any injury or incident related to work or maintenance activities performed on any personal vehicle regardless of ownership.

It is expressly understood that injuries or incidents connected or related to the performance of work on any personal vehicles, whether owned by the employee or another bargaining unit member, do not occur in the scope of employment with the City of Youngstown. As such, the employee acknowledges that they are not covered by Workers' Compensation, Injury on Duty, Disability Leave, or any other contractual provision meant to apply to injuries sustained in the performance of the employee's job duties.

Section 4. Employees shall be permitted to shop for groceries for duty meals while on duty.

ARTICLE 49 **CONTRACT PRINTING**

Section 1. The City and the Union will share equally in the cost of the printing of this Contract. The City will provide at no cost a master copy for printing.

ARTICLE 50
OFFICE SPACE

Section 1. The City shall provide the Union with reasonable space for an office.

ARTICLE 51
MANDATORY MESS

The City does require a mandatory mess (meals provided at the fire station for employees on duty). All employees on duty must contribute to the organized mess regardless of whether the employee uses said food service.

ARTICLE 52
PERSONAL VEHICLE

The City agrees to allow the firefighters to drive their personal vehicle for transferring from station to station during working hours provided that the firefighter maintains liability insurance with a minimum coverage of one hundred thousand dollars (\$100,000) and the City of Youngstown be added to his policy as an additional insured.

ARTICLE 53
FITNESS FOR DUTY EVALUATIONS

Section 1. If an employee fails to provide a satisfactory medical release establishing that he is fit for duty and able to perform the essential functions of his job, the City may refuse to permit the employee to return to duty until the employee submits a satisfactory release or until the employee is examined by an independent physician who is not employed on a contractual or other basis by the City for a second opinion.

Section 2. Required Exam/Release. The employee will be required to undergo the examination and sign medical releases permitting the independent physician to obtain and review any of the employee's medical records necessary for his evaluation.

Section 3. Leave Usage. The employee will be paid for his time off from work from any accrued leave time he has available which will be reinstated if the independent physician reports the employee may return to work.

Section 4. Disability Separation. If the independent physician reports that the employee is not fit for duty and cannot perform the essential functions of his job, the City shall commence proceedings to involuntarily separate the individual from employment with the City, pursuant to the Civil Service Rules.

Section 5. ADA Interactive Process prior to Disability Separation. If the employee has an ADA recognized disability, the employee will have ten (10) days to advise the City of a reasonable accommodation(s) that the City can make to allow him to perform the essential functions of his job. If no reasonable accommodations can be made, the City will proceed with involuntary disability separation proceedings under Section 4.

ARTICLE 54
PAYCHECK REPORTING/DISCLOSURE

Section 1. Out of Rank Itemization. The City agrees to continue Out-of-Rank pay earned by an employee for a pay period on the itemized list on the payroll check.

Section 2. PCE Deduction. The parties agree that beginning no later than thirty (30) days after the signing of this collective bargaining agreement, the City will allow and provide for Political Contributing Entity (PCE) deductions through the City payroll system for any employee opting to enroll. The contribution will be listed under deductions on the employees' payroll stub. The Union shall provide all necessary documentation for data entry of deductions.

Section 3. Next Payroll Update RFP. The City agrees that in their next Request for Proposals to update the City payroll accounting system, they will include language that will provide for allowing bargaining unit employees to have a second option of deferred compensation program. An employee may have only one (1) plan, but at their option may be either of the two (2) plans. The Union shall provide all necessary documentation to the Finance Department for the alternative plan.

The City further agrees that the RFP will require that deferred compensation contributions appear on payroll as pre-tax deductions. The Union will be provided a copy of the City's RFP.

Section 4. Direct Deposit. Commencing with the first full pay period in January 2012, all bargaining unit employees shall be enrolled in direct deposit for payroll purposes.

ARTICLE 55
TAKE HOME CITY VEHICLE

Employees assigned to the Fire Investigation Unit or Fire Prevention Bureau shall be permitted to take a vehicle home if they reside within the City of Youngstown.

ARTICLE 56
APPLICATION OF CIVIL SERVICE LAW

Section 1. Application of Civil Service Law. Unless otherwise provided for in this contract, the bargaining unit members shall retain all rights reserved to them under Civil Service Law and state statutes. The parties agree that to the extent that they have bargained over and reached agreement over a subject addressed in Ohio Civil Service Law, it is the intent of the parties that such subject shall be governed by the parties' agreement.

Section 2. Notwithstanding the foregoing, the parties agree that the conduct and grading of civil service examinations (as related to the Youngstown Civil Service Commission), the establishment of eligible lists from examinations, and the original appointments from eligible lists are not appropriate subjects for bargaining pursuant to Section 4117.08 ORC, except as provided in Article 13.

ARTICLE 57
DURATION

Section 1. This Agreement will be effective June 1, 2020, through May 31, 2023.

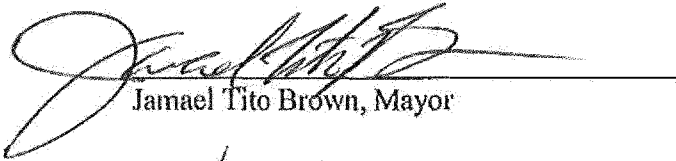
Section 2. Should either party desire to modify or amend this Agreement, it shall give written notice of such intent no earlier than one hundred twenty (120) calendar days prior to nor later than ninety (90) calendar days prior to the expiration date of this Agreement or any re-opener provision contained therein.

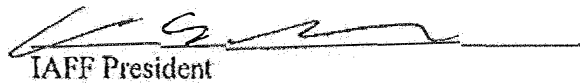
SIGNATURE PAGE

IN WITNESS WHEREOF, the parties hereto have set their hands this 5th day of November, 2021.

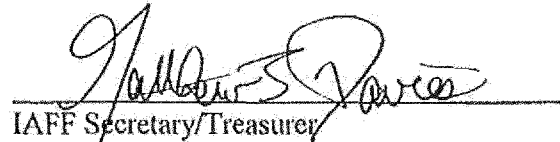
For the City of Youngstown

For the IAFF, Local 312

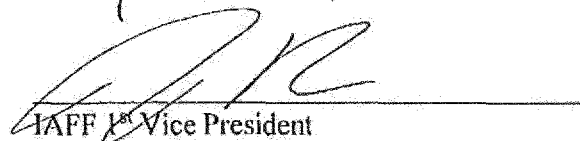

Jamael Tito Brown, Mayor


IAFF President


Kyle Miasek, Finance Director


IAFF Secretary/Treasurer

ABSENT
Jeff Limbian, Law Director


IAFF 1st Vice President

Michael D. Esposito, Chief Negotiator
Clemans, Nelson, & Associates, Inc.

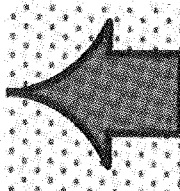

IAFF 2nd Vice-President

APPROVED AS TO FORM


IAFF Trustee

DEPARTMENT OF LAW


IAFF Trustee



APPENDIX A
WAGE SCALE

Effective January 1, 2021 – 1.0% General Wage Increase				
<u>Classification</u>	<u>Annual</u>	<u>Bi-Weekly</u>	<u>51 Hour Rate</u>	<u>40 Hour Rate</u>
Battalion Chief	\$76,136.89	\$2,928.34	\$28.71	\$36.60
Captain	\$66,534.68	\$2,559.03	\$25.09	\$31.99
Chief Inspector	\$66,534.68	\$2,559.03	\$25.09	\$31.99
Chief Fire Investigator	\$66,534.68	\$2,559.03	\$25.09	\$31.99
Lieutenant	\$62,065.29	\$2,387.13	\$23.40	\$29.84
<u>Classification</u>	<u>Annual</u>	<u>Bi-Weekly</u>	<u>51 Hour Rate</u>	<u>40 Hour Rate</u>
Firefighter- Step 10	\$57,913.35	\$2,227.44	\$21.84	\$27.84
Firefighter- Step 9	\$52,523.07	\$2,020.12	\$19.81	\$25.25
Firefighter- Step 8	\$48,771.43	\$1,875.82	\$18.39	\$23.45
Firefighter- Step 7	\$45,019.77	\$1,731.53	\$16.98	\$21.64
Firefighter- Step 6	\$41,268.14	\$1,587.24	\$15.56	\$19.84
Firefighter- Step 5	\$37,516.48	\$1,442.94	\$14.15	\$18.04
Firefighter- Step 4	\$33,764.84	\$1,298.65	\$12.73	\$16.23
Firefighter- Step 3	\$30,013.18	\$1,154.35	\$11.32	\$14.43
Firefighter- Step 2	\$26,797.48	\$1,030.67	\$10.10	\$12.88
Firefighter- Step 1	\$25,725.59	\$989.45	\$9.70	\$12.37
<u>Classification</u>	<u>Annual</u>	<u>Bi-Weekly</u>	<u>51 Hour Rate</u>	<u>40 Hour Rate</u>
Inspector - Step 11	\$62,065.29	\$2,387.13	\$23.40	\$29.84
Inspector - Step 10	\$56,274.73	\$2,164.41	\$21.22	\$27.06
Inspector - Step 9	\$52,523.07	\$2,020.12	\$19.81	\$25.25
Inspector - Step 8	\$48,771.43	\$1,875.82	\$18.39	\$23.45
Inspector - Step 7	\$45,019.77	\$1,731.53	\$16.98	\$21.64
Inspector - Step 6	\$41,268.14	\$1,587.24	\$15.56	\$19.84
Inspector - Step 5	\$37,516.48	\$1,442.94	\$14.15	\$18.04
Inspector - Step 4	\$33,764.84	\$1,298.65	\$12.73	\$16.23
Inspector - Step 3	\$30,013.18	\$1,154.35	\$11.32	\$14.43
Inspector - Step 2	\$26,797.48	\$1,030.67	\$10.10	\$12.88
Inspector - Step 1	\$25,725.59	\$989.45	\$9.70	\$12.37

APPENDIX A
(continued)

Effective January 1, 2022 – 2.0% General Wage Increase				
<u>Classification</u>	<u>Annual</u>	<u>Bi-Weekly</u>	<u>51 Hour Rate</u>	<u>40 Hour Rate</u>
Battalion Chief	\$77,659.63	\$2,986.91	\$29.28	\$37.34
Captain	\$67,865.37	\$2,610.21	\$25.59	\$32.63
Chief Inspector	\$67,865.37	\$2,610.21	\$25.59	\$32.63
Chief Fire Investigator	\$67,865.37	\$2,610.21	\$25.59	\$32.63
Lieutenant	\$63,306.59	\$2,434.87	\$23.87	\$30.44
<u>Classification</u>	<u>Annual</u>	<u>Bi-Weekly</u>	<u>51 Hour Rate</u>	<u>40 Hour Rate</u>
Firefighter- Step 10	\$59,071.62	\$2,271.99	\$22.27	\$28.40
Firefighter- Step 9	\$56,000.03	\$2,153.85	\$21.12	\$26.92
Firefighter- Step 8	\$53,500.03	\$2,057.69	\$20.17	\$25.72
Firefighter- Step 7	\$50,500.04	\$1,942.31	\$19.04	\$24.28
Firefighter- Step 6	\$48,288.03	\$1,857.23	\$18.21	\$23.22
Firefighter- Step 5	\$45,645.03	\$1,755.58	\$17.21	\$21.94
Firefighter- Step 4	\$43,145.03	\$1,659.42	\$16.27	\$20.74
Firefighter- Step 3	\$41,145.03	\$1,582.50	\$15.51	\$19.78
Firefighter- Step 2	\$39,145.03	\$1,505.58	\$14.76	\$18.82
Firefighter- Step 1	\$37,145.03	\$1,428.66	\$14.01	\$17.86
<u>Classification</u>	<u>Annual</u>	<u>Bi-Weekly</u>	<u>51 Hour Rate</u>	<u>40 Hour Rate</u>
Inspector - Step 11	\$63,306.59	\$2,434.87	\$23.87	\$30.44
Inspector - Step 10	\$58,145.03	\$2,236.35	\$21.92	\$27.95
Inspector - Step 9	\$55,645.03	\$2,140.19	\$20.98	\$26.75
Inspector - Step 8	\$53,145.03	\$2,044.04	\$20.04	\$25.55
Inspector - Step 7	\$50,645.03	\$1,947.89	\$19.10	\$24.35
Inspector - Step 6	\$48,145.03	\$1,851.73	\$18.15	\$23.15
Inspector - Step 5	\$45,645.03	\$1,755.58	\$17.21	\$21.94
Inspector - Step 4	\$43,145.03	\$1,659.42	\$16.27	\$20.74
Inspector - Step 3	\$41,145.03	\$1,582.50	\$15.51	\$19.78
Inspector - Step 2	\$39,145.03	\$1,505.58	\$14.76	\$18.82
Inspector - Step 1	\$37,145.03	\$1,428.66	\$14.01	\$17.86

APPENDIX A
(continued)

Effective January 1, 2023 – 2.5% General Wage Increase				
<u>Classification</u>	<u>Annual</u>	<u>Bi-Weekly</u>	<u>51 Hour Rate</u>	<u>40 Hour Rate</u>
Battalion Chief	\$79,601.12	\$3,061.58	\$30.02	\$38.27
Captain	\$69,562.01	\$2,675.46	\$26.23	\$33.44
Chief Inspector	\$69,562.01	\$2,675.46	\$26.23	\$33.44
Chief Fire Investigator	\$69,562.01	\$2,675.46	\$26.23	\$33.44
Lieutenant	\$64,889.26	\$2,495.74	\$24.47	\$31.20
<u>Classification</u>	<u>Annual</u>	<u>Bi-Weekly</u>	<u>51 Hour Rate</u>	<u>40 Hour Rate</u>
Firefighter- Step 10	\$60,548.41	\$2,328.79	\$22.83	\$29.11
Firefighter- Step 9	\$56,000.03	\$2,153.85	\$21.12	\$26.92
Firefighter- Step 8	\$53,500.03	\$2,057.69	\$20.17	\$25.72
Firefighter- Step 7	\$50,500.04	\$1,942.31	\$19.04	\$24.28
Firefighter- Step 6	\$48,288.03	\$1,857.23	\$18.21	\$23.22
Firefighter- Step 5	\$45,645.03	\$1,755.58	\$17.21	\$21.94
Firefighter- Step 4	\$43,145.03	\$1,659.42	\$16.27	\$20.74
Firefighter- Step 3	\$41,145.00	\$1,582.50	\$15.51	\$19.78
Firefighter- Step 2	\$39,145.03	\$1,505.58	\$14.76	\$18.82
Firefighter- Step 1	\$37,145.03	\$1,428.66	\$14.01	\$17.86
<u>Classification</u>	<u>Annual</u>	<u>Bi-Weekly</u>	<u>51 Hour Rate</u>	<u>40 Hour Rate</u>
Inspector - Step 11	\$64,889.26	\$2,495.74	\$24.47	\$31.20
Inspector - Step 10	\$58,145.03	\$2,236.35	\$21.92	\$27.95
Inspector - Step 9	\$55,645.03	\$2,140.19	\$20.98	\$26.75
Inspector - Step 8	\$53,145.03	\$2,044.04	\$20.04	\$25.55
Inspector - Step 7	\$50,645.03	\$1,947.89	\$19.10	\$24.35
Inspector - Step 6	\$48,145.03	\$1,851.73	\$18.15	\$23.15
Inspector - Step 5	\$45,645.03	\$1,755.58	\$17.21	\$21.94
Inspector - Step 4	\$43,145.03	\$1,659.42	\$16.27	\$20.74
Inspector - Step 3	\$41,145.03	\$1,582.50	\$15.51	\$19.78
Inspector - Step 2	\$39,145.03	\$1,505.58	\$14.76	\$18.82
Inspector - Step 1	\$37,145.03	\$1,428.66	\$14.01	\$17.86

APPENDIX B
DRUG AND ALCOHOL TESTING

A. Purpose: Notice

1. The City of Youngstown 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 dependence, illegal drug use or drug and alcohol abuse.
2. Liability could be found against the City and the employee if the City fails to address and ensure that employees can perform their duties without endangering themselves or the public.
3. There is sufficient evidence to conclude that use of illegal drugs, the misuse of drug and drug, or alcohol dependence seriously impairs an employee's performance and general physical and mental health. The illegal possession and use of drugs and narcotics by employees is a crime in this jurisdiction and clearly unacceptable.
4. Firefighters carry out safety sensitive functions and are thus subject to greater scrutiny for the use of illegal drugs or the abuse of drugs or alcohol.

B. Definitions

1. "Employee" means all union personnel employed by the City in its Fire Department.
2. "Safety sensitive functions" means all time an employee is at work or required to be in readiness for work.
3. "Reasonable suspicion" means an apparent state of facts, circumstances or information which exists from an inquiry by the supervisor or from a creditable source which would induce a reasonably intelligent and prudent person to believe the employee was under the influence or using drugs/narcotics.

C. General Rules

1. Employees shall not take any narcotics or dangerous substances unless prescribed by a person licensed to practice medicine. Employees who are required to take prescription medicine shall notify their immediate supervisors of the medication prescribed and the nature of the illness or injury. Any statutory defined illegal use of drugs by an employee, whether at or outside City employment, shall not be tolerated.
2. All property belonging to the City 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, containers, files, and storage lockers.

APPENDIX B
DRUG AND ALCOHOL TESTING (Continued)

3. Employees who have reasonable basis to believe that another employee is illegally using drugs or narcotics shall report the facts and circumstances immediately to their supervisor.
4. Failure to comply with the intent or provisions of this section may be used as grounds for disciplinary action. Refusal by an employee to take the required drug test or follow the regulations prescribed in this section shall result in immediate relief from City duties pending disposition of any administrative personnel action.

D. Policy - Drug Testing and Alcohol Testing

Pre-Employment Testing

All prospective appointees for any position in the Fire Department will be routinely tested for drug or narcotic usage. The testing procedure and safeguards set forth in this section shall be followed. Applicants testing positive for drugs or refusing a drug test shall not be hired.

Reasonable Suspicion Testing

Reasonable suspicion drug and/or alcohol testing will be required if a supervisor or management person has reasonable suspicion to believe that a covered employee is under the influence of alcohol or drugs using illegal drugs, or had a substance abuse problem. Employees to be tested under reasonable suspicion shall be driven to the test site by a supervisor.

A supervisor who orders a drug or alcohol test when there is a reasonable suspicion of the use of alcohol or any drug or narcotic shall forward a report containing the facts and circumstances directly to the department head. The employee shall be verbally advised of any applicable reasonable suspicion at the time of the test and receive a written statement of the same reasonable suspicion within twenty-four (24) hours of the test.

Post-Accident Testing

Post-accident testing for drugs and alcohol will be required after accidents occurring while an employee is carrying out safety sensitive functions in the following circumstances:

Any accident involving a fatality; any moving vehicle accident in which the employee driver is cited and there is disabling damage to the vehicle(s) requiring tow-away; or any moving vehicle accident in which: the employee driver is cited and off-site medical treatment is required; for any drivers or passengers.

Random Testing

Up to five percent (5%) of all covered employees may be randomly tested for alcohol per year and twenty percent (20%) may be randomly tested for drugs per year.

APPENDIX B
DRUG AND ALCOHOL TESTING (Continued)

All covered employees will be included in a computer-based random selection pool and names of employees selected for testing shall be returned to the random pool after testing to ensure that each employee's chances of being selected are the same.

Return to Duty Testing and Follow-up Testing

Any employee who tests positive on a drug or alcohol test must be evaluated, treated, and must successfully complete a drug or alcohol treatment program and be given a return to duty test with passing results as a condition for returning to duty. The alcohol test result must be less than 0.04 BAC, and the controlled substance test must be negative. After testing positive for drugs and returning to duty, the employee will be subject to random urinalysis at any time for a two (2) year period.

Alcohol Testing Procedures

Alcohol tests shall be by breathalyzer (EBT) administered by a certified Breath Alcohol Technician (BAT). A breath alcohol content (BAC) of 0.04 shall be considered a positive test.

The test shall take place at a location that assures privacy and denies access to unauthorized individuals. The employee will provide photo ID and has the right to request ID of the BAT. A copy of the result will be provided to the employee.

A confirmation test will be required of any result showing an alcohol concentration level of 0.04 or greater. Positive test results shall be immediately transmitted to an employer representative in a confidential manner.

An employee testing 0.04 or above shall be removed from duty for no less than twenty- four (24) hours. If an employee testing 0.04 or above was driven to a testing site by a supervisor, the supervisor shall drive the employee home after testing or the employee may choose to contact a family member or other individual to drive him/her home. If the employee drove himself/herself, the employee will remain at the test site until a supervisor arrives to drive the employee home. The employee shall be responsible to make arrangements for his vehicle left at work or the testing site.

Drug Testing Procedure

Drug testing shall be by urinalysis for the presence of metabolites of cannabinoids (marijuana), cocaine, opiates, amphetamines, methamphetamine, oxycodone (oxycotin), propoxyphene, benzodiazepines, barbiturates, methylenedioxymethyl amphetamine (Ecstasy) and phencyclidine;) (PCP), and such other controlled substances as warranted by statutory updates/societal changes. A "split sample" method of collection will be used. The primary specimen shall be subject to an instant testing method. The foregoing drugs test positive at the following thresholds:

APPENDIX B
DRUG AND ALCOHOL TESTING (Continued)

<u>Drug</u>	<u>Initial Screening</u>	<u>Confirmation</u>
Cannabinoids (marijuana)	50 ng/ml	15 ng/ml
Cocaine	300 ng/ml	150 ng/ml
Non-Prescribed Steroids	N/A	N/A
Methamphetamine	1,000 ng/ml	500 ng/ml
Amphetamines	1,000 ng/ml	500 ng/ml
Opiates	2,000 ng/ml	2,000 ng/ml
Oxycodone (oxycotin)	100 ng/ml	100 ng/ml
Propoxyphene	300 ng/ml	300 ng/ml
Benzodiazepines	300 ng/ml	300 ng/ml
Barbiturates	200 ng/ml	300 ng/ml
Methylenedioxymethyl amphetamine (Ecstasy)	500 ng/ml	500 ng/ml
Phencyclidine (PCP)	25 ng/ml	25 ng/ml
Non-Prescribed Steroids/anabolic Steroids	200 ng/ml	200 ng/ml
Non-Prescribed Vicodin	N/A	N/A
Methadone	300 ng/ml	300 ng/ml
6-Acetylmorphine	10 ng/ml	10 ng/ml

In the event that the primary specimen tests positive, a confirmatory test will be performed. The confirmatory test shall be performed by a DHHS certified laboratory. An employee may request a re-test within seventy-two (72) hours of being informed of a positive result and may have the re-test performed at a different DHHS certified laboratory at the employee's cost.

Urine collection for controlled substances shall be at a collection site which shall have in place sufficient security measures to ensure that no unauthorized personnel handle specimens or gain access to the laboratory process or to the area where records are stored, and shall use chain of custody procedures and chain of custody forms. The date, time, and purpose of handling or transfer and every individual in the chain of custody shall be identified and documented.

Specimen collection shall occur in a private setting and procedures shall be used that do not demean, embarrass, or cause physical discomfort to the employee. The collection site technician shall be of the same sex as the employee to be tested. The employee will provide photo ID.

A tamper-proof seal shall be used on the containers and they shall be labeled with the date and the employee's identifying number, and shall be initialed by the employee. The employee shall also be required to sign a certification on the custody and control form that the sample is his.

The laboratory shall report test results in a manner ensuring confidentiality to the employer's Medical Review Officer (MRO).

APPENDIX B
DRUG AND ALCOHOL TESTING (Continued)

The MRO shall report only that the test was positive or negative, and if positive, for which drugs. However, the MRO may reveal the quantitative test results to the employer, the employee or decision maker in a lawsuit, grievance, or by other proceedings initiated by or on behalf of the employee and arising from a verified positive drug test.

The MRO will contact the employee directly, where possible, for a medical interview prior to verifying a test result as positive.

Any employee shall upon written request have access to any records relating to his or her drug test.

Refusal to Test

An employee's refusal will be considered as a positive test. Refusal includes failure to appear for any test or to remain at the testing site until testing is completed; refusal to sign the prescribed form(s); failure to provide sufficient breath or urine sample to complete the test without adequate medical explanation for the failure; failure to undergo a medical evaluation directed by the MRO; failure to cooperate with any part of the testing process; and having an adulterated or substituted test result.

Any person refusing to take a pre-employment test will not be hired. An employee refusing to take a return to duty test cannot be returned to duty.

Required Evaluation and Treatment

No covered employee known to be using drugs, or known to have tested positive for drugs shall be permitted to perform or continue to perform safety-sensitive functions.

Any covered employee found to have engaged in prohibited drug or alcohol use shall be informed of available resources to evaluate and resolve problems with the misuse of alcohol and drugs and provided with a list of substance abuse professionals and counseling and treatment programs.

The covered employee must be evaluated by a substance abuse professional (SAP) to determine what assistance, if any, the employee needs; must follow any rehabilitation program prescribed; must be evaluated to determine that he has properly followed said rehabilitation program; and, after a determination that he has successfully complied with an education and/or treatment program, must pass a return to duty alcohol or drug test.

Discipline

- A. Employees who have tested positive on a drug and/or alcohol test shall be subject to disciplinary action. If the employee agrees to enter and successfully complete a rehabilitation program, the disciplinary action will not exceed thirty (30) calendar days for

APPENDIX B
DRUG AND ALCOHOL TESTING (Continued)

the first offense. Thereafter, for a period of two years, the employee shall be subject to random urinalysis at any time.

- B. Covered employee who tests positive, for a second time, on an above-defined drug and alcohol test, will be subject to immediate termination.
- C. Refusal to test, follow-up positive drug or alcohol tests, or failure to successfully complete a rehabilitation program will subject a covered employee to immediate termination.

Costs

The cost of an employee requested retest of a urinalysis sample and the cost of an alcohol or drug rehabilitation program (including testing while in a rehabilitation program) required under this policy after a positive drug or alcohol test result, shall be the responsibility of the employee.

An employee who tests positive on a drug or alcohol test, and cannot return to work pending a negative re-test or completion of a drug or alcohol rehabilitation program, will be required to use accrued paid vacation or personal leave, accrued paid sick or medical leave, or unpaid leave pursuant to the City of Youngstown's Family Medical Leave Act Policies and Procedures.

APPENDIX C
IOD/WORKERS' COMPENSATION PROVIDERS

Note: The attached list represents the City's list of approved providers for IOD. This list will be updated in January of each year.

Anyone requesting a physician not on the list must contact the Union so that the request can be forwarded to the City for consideration.

CITY OF YOUNGSTOWN
100/WORKERS' COMPENSATION PROVIDERS

JANUARY 2021

Society	Facility Name	Provider Name	Address	City	Phone	Hours	POB	Sub Specialty
Initial Treatment/Ortho	Youngstown Orthopedics Urgent Care		2499 Boardman-Carfield Rd	Boardman	330-738-0577	Mon-Fri 8am-7pm Sat 9-2	NO	Sports/Strains/Musculoskeletal
Initial Treatment/Ortho	Youngstown Orthopedics Urgent Care		1595 Niles Carfield NE STE 2	Warren	330-739-0577	Mon-Fri 8am-7pm	INC	Sports/Strains/Musculoskeletal
Initial Treatment	Steward Immediate Care/WorkMed		20 Oakwood Road	Boardman	330-322-1500	Mon-Fri 8am-4pm Sat 9-1	YES	
	Steward Immediate Care/WorkMed		60 Oakwood Circle Ste B	Boardman	330-322-1500	Mon-Fri 8am-4pm	YES	
	Steward Immediate Care/WorkMed		1950 Niles Carfield Road	Warren	330-336-4101	Mon-Fri 8am-8pm	NO	
Follow up Occ								
Health/Urgent Care	Steward Immediate Care/WorkMed		20 Oakwood Road	Boardman	330-322-1500	Mon-Fri 8am-4pm Sat 9-1	YES	
	Steward Immediate Care/WorkMed		60 Oakwood Circle Ste B	Boardman	330-322-1500	Mon-Fri 8am-4pm	YES	
	Youngstown Orthopedics Urgent Care		1499 Boardman-Carfield Rd	Boardman	330-739-0577	Mon-Fri 8am-7pm Sat 9-2	NO	
	MercyHealth Urgent Care		1595 Niles Carfield Road	Warren	330-336-4101	Mon-Fri 8am-8pm	NO	
	910 Rapid Care		910 Boardman-Carfield Road	Boardman	330-365-0075		YES	
	MercyHealth Occupational Boardman		45 McClure Road	Boardman	330-729-1480	By Appointment	YES	
	MercyHealth Occupational Howland		1150 Niles Carfield Road	Warren	330-336-5000	8am-4pm by 2pm	YES	
Orthopedics	Youngstown Orthopedics		670 Tupperware Road Building A	Canfield	330-738-0577	By Appt	YES	
			1499 Boardman-Carfield Road B	Boardman	330-738-0577	By Appt	YES	
			1595 Niles-Carfield Road NE	Warren	330-739-0577	By Appt	YES	
		Leslie Schwendeman MD	Building A and Howland				YES	Hand/Upper Extremity
		James Soliman MD	Building A and Howland				YES	Foot/Ankle
		David Weiner MD	Building B and Howland				YES	Mid/Knee
		Thomas Joseph MD	Building A and Howland				YES	General
		Michael McBride MD	Building A and Howland				YES	Hand/Upper Extremity
		K. Seth Kowik MD	Building B and Howland				YES	Mid/Knee
		James Sizer MD	Building A and Howland				YES	General
		Douglas Musser	Building B				YES	Spine
		James Jamison MD	Building B and Howland				YES	Knee
		Joseph Stelbo MD	Building A and Howland				YES	Shoulder
		James Kerrigan MD	Building A				YES	General
	MercyHealth Boardman Orthopedics		535 Midway Court	Boardman	330-738-4599	By Appt	YES	
		Jeffrey Johnston MD				By Appt	YES	General
		Thomas Boniface MD				By Appt	YES	General
		Adrian Butler MD				By Appt	YES	Hand/Upper Extremity
		Raymond Boniface MD				By Appt	YES	General
	University Orthopedics		1335 Belmont Avenue	Youngstown	330-767-3700	By Appt	YES	General
		John A. Stefankin MD				By Appt	YES	General
		Raymond S. Duffett				By Appt	YES	General
	St. Elizabeth Orthopedics		2104 Belmont Avenue	Youngstown	330-330-3990	By Appt	YES	General
		Tyson Schickel MD				By Appt	YES	General
		John Vincent Gentile MD				By Appt	YES	General/Trauma

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CITY OF YOUNGSTOWN
 100/WORKERS' COMPENSATION PROVIDERS

		James Boniface MD	880 W. Liberty Street		Hubbard	330-532-5400	By Appt	YES	General
	OH-UPWORTHY Hospital		22100 Euclid Avenue		Cleveland	216-843-7200	By Appt		
			1000 Auburn Drive		Beachwood				
			960 Cuyahoga Road		Westlake				
			720 Sam Center Road		Mayfield				
		Nicholas Alter MD				216-894-7200	By Appt	NO	Orthopedic Spine
		Christopher Furey MD				216-894-7200	By Appt	NO	Orthopedic Spine
		Reuben Gabelke MD				866-746-8337	By Appt	NO	Orthopedic Shoulder
	Southernwoods Hospital		255 DeSoto Place		Boardman				
		Frank Grizzi MD				330-334-9070	By Appt	NO	Orthopedic Spine
		Brian Shannon MD				330-334-9070	By Appt	NO	Orthopedic Spine
	General Clinic		9500 Euclid Avenue		Cleveland				
		William Blanton MD				216-636-5860	By Appt		Neurologist
		Edward Bensch MD				216-636-5860	By Appt		Neurologist
		John Kelley MD				216-636-5860	By Appt		Neurologist
		Adrian Zachary DO MPH				216-636-5860	By Appt		Spine Health
		Deborah Venero MD				216-636-5860	By Appt		Spine Health
	Metropolitan								
		Kene Ugwu MD	540 Parkside Avenue STE 510		Youngstown	330-763-1823	By Appt	NO	Neurologist
		Dorcas Singh MD	540 Parkside Avenue STE 510		Youngstown	330-763-1823	By Appt	NO	Neurologist
	Crystal Clinic		3925 Embassy Pkwy Ste 200		Alton	330-668-4265	By Appt	YES	Upper Extremity/Hand
		John Brand MD							Upper Extremity/Hand
		John W. Zisch MD							Upper Extremity/Hand/Shoulder
		Robert Stachowicz MD							Spine
		Deborah Ehrler MD							Shoulder/Upper Limb
		William Polan MD							
		Daniel Ebert MD	12385 E. Western Reserve Road		Poland	330-757-1495	By Appt		Hands
	Chiropractor	Andria D'Amato DC	45 Manor Hill Dr Suite 300		Cincinnati	234-414-7130			
		Trey Bury DC	4030 Boardman-Camfield Road		Cincinnati	330-702-5555	By Appt	YES	Chiropractor
		Adrian D'Amato DC	341 Southwest Run Ste 2		Poland	330-628-9202	By Appt	YES	Chiropractor
	Burns	Alton Burn Unit	300 Locust Street Suite 560		Alton	330-624-3344	By Appt	YES	Burns
	MicroHealth Burn Unit		2530 MicroHealth Drive		Cleveland	216-778-7800	By Appt	YES	Burns
	Ophthalmology/	Eye Care Associates	1075 W. Western Reserve Road		Poland	330-332-8339	By Appt	YES	Ophthalmology/Ophthalm
	Ophthalmology/		1060 North River Road NE		Warren				Ophthalmology/Ophthalm

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APPENDIX D
GRIEVANCE PROCEDURE

NO. _____
STEP _____

UNION _____
DEPARTMENT AND/OR DIVISION _____
DATE FILED _____

DATE RECEIVED BY THE CITY OF YOUNGSTOWN _____
NAME OF PERSON RECEIVING SAME _____

NAME OF GRIEVANT _____
POSITION HELD _____
CURRENT ASSIGNMENT _____

IF ANY DOCUMENT IS NECESSARY TO PROVE YOUR GRIEVANCE, PLEASE INDICATE
SAME _____

DESCRIPTION OF GRIEVANCE, INCLUDING DATE: _____

REMEDY DESIRED _____

UNION REPRESENTATIVE

GRIEVANT

DATE _____

COPIES TO: GRIEVANT; PRESIDENT OF UNION; DEPARTMENT HEAD
 MAYOR'S DESIGNEE

APPENDIX D (Continued)
GRIEVANCE PROCEDURE

CITY OF YOUNGSTOWN RESPONSE TO GRIEVANCE

NO. _____ STEP _____

NAME OF RESPONDENT _____

RANK AND/OR DESIGNATION TO PROCESS GRIEVANCE _____

DATE OF HEARING _____

RESPONSE TO CITY TO HEARING BEFORE DEPARTMENT HEAD OR HIS
REPRESENTATIVE _____

DISPOSITION _____

SIGNATURE WITH RANK OR DESIGNATION

DATE

APPENDIX D (Continued)
GRIEVANCE PROCEDURE

CITY OF YOUNGSTOWN
MAYOR'S DESIGNEE DECISION

NO. _____ STEP _____

DATE RECEIVED BY MAYOR'S DESIGNEE _____

NAME OF GRIEVANT _____

DISPOSITION _____

SIGNATURE OF PERSON DISPOSING OF GRIEVANCE

DATE DISPOSED

COPIES TO: GRIEVANT; PRESIDENT OF UNION; DEPARTMENT HEAD;
MAYOR'S DESIGNEE

APPENDIX D (Continued)
GRIEVANCE PROCEDURE

CITY OF YOUNGSTOWN
GRIEVANCE FORM
SUMMARY AND DISPOSITION SHEET

NO. _____ STEP _____

DEPARTMENT AND/OR DIVISION _____

NAME OF GRIEVANT _____

DATE FILED _____

SIGNATURE OF PERSON RECEIVING SAME FOR CITY _____

☐ THIS GRIEVANCE IS SETTLED

☐ THIS GRIEVANCE IS NOT SETTLED

☐ I APPEAL TO THE _____ STEP

☐ I DO NOT WISH TO APPEAL

☐ I APPEAL TO THE DEPARTMENT HEAD

☐ I APPEAL TO THE MAYOR'S DESIGNEE

☐ I APPEAL TO ARBITRATION

COMMENTS _____


UNION REPRESENTATIVE

APPENDIX E

INSURANCE BENEFITS SCHEDULE

Summary of Benefits and Coverage: What this Plan Covers & What You Pay For Covered Service

Coverage Period: 02/01/2021 – 01/31/2022

 UnitedHealthcare

Choice Plus Plan

Coverage for: Family | Plan Type: PS1

AA The Summary of Benefits and Coverage (SBC) document will help you choose a health plan. The SBC shows you how you and the plan would share the cost for covered health care services. **NOTE:** Information about the cost of this plan (called the premium) will be provided separately. This is only a summary. For more information about your coverage, or to get a copy of the complete terms of coverage, call 1-866-633-2446 or visit www.unitythe.com. For general definitions of common terms, such as allowed amount, balance billing, coinsurance, copayment, deductible, provider, or other understood terms see the Glossary. You can view the Glossary at www.healthcare.gov/ask-the-experts/ or call 1-855-487-2365 to request a copy.

Important Questions	Answers	Why This Matters
What is the overall deductible?	Network: \$500 Individual / \$1,000 Family Non-Network: \$1,000 Individual / \$2,000 Family Per calendar year.	Generally, you must pay all of the costs from <u>providers</u> up to the <u>deductible</u> amount before this plan begins to pay. If you have other family members on the plan, each family member must meet their own individual deductible until the total amount of deductible expenses paid by all family members meets the overall family deductible.
Are there services covered before you meet your deductible?	Yes. Preventive care and categories with a copay are covered before you meet your deductible.	This plan covers some items and services even if you haven't yet met the annual deductible amount. But a <u>copayment</u> or <u>coinsurance</u> may apply. For example, this plan covers certain <u>preventive services</u> without <u>cost-sharing</u> and before you meet your deductible. See a list of covered services at www.healthcare.gov/coverage/preventive-care-benefits/ .
Are there other deductibles for specific services?	No.	You don't have to meet deductibles for specific services.
What is the out-of-pocket limit for this plan?	Network: \$3,000 Individual / \$6,000 Family Non-Network: \$6,000 Individual / \$12,000 Family Per calendar year.	The <u>out-of-pocket limit</u> is the most you could pay in a year for covered services. If you have other family members in this plan, they have to meet their own <u>out-of-pocket limits</u> until the overall family <u>out-of-pocket limit</u> has been met.
What is not included in the out-of-pocket limit?	<u>Premiums</u> , <u>balance billing</u> charges, health care this plan doesn't cover and penalties for failure to obtain <u>preauthorization</u> for services.	Even though you pay these expenses, they don't count toward the <u>out-of-pocket limit</u> .
Will you pay less if you use a network provider?	Yes. See my.unitythe.com or call 1-866-633-2446 for a list of <u>network providers</u> .	You pay the least if you use a <u>provider</u> in the Designated <u>Network</u> . You pay more if you use a <u>provider</u> in the <u>Network</u> . You will pay the most if you use an <u>out-of-network provider</u> , and you might receive a bill from a <u>provider</u> for the difference between the <u>provider's</u> charge and what your plan pays (<u>balance billing</u>). Be aware, your <u>network provider</u> might use an <u>out-of-network provider</u> for some services (such as lab work). Check with your <u>provider</u> before you get services.
Do you need a referral to see a specialist?	No.	You can see the <u>specialist</u> you choose without a <u>referral</u> .

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 All copayment and coinsurance costs shown in this chart are after your deductible has been met, if a deductible applies.

Common Medical Event	Services You May Need	What You Will Pay		Limitations, Exceptions, & Other Important Information
		Network Provider (You will pay the least)	Non Network Provider (You will pay the most)	
If you visit a health care provider's office or clinic	Primary care visit to treat an injury or illness	\$15 copay per visit, deductible does not apply.	20% coinsurance	Virtual visits (Telehealth) - No Charge by a Designated Virtual Network Provider. No virtual coverage non-network. If you receive services in addition to office visit, additional copays, deductibles or coinsurance may apply e.g. surgery.
	Specialist visit	\$20 copay per visit, deductible does not apply.	20% coinsurance	If you receive services in addition to office visit, additional copays, deductibles or coinsurance may apply e.g. surgery.
	Preventive care/screening/immunization	No Charge	20% coinsurance	You may have to pay for services that aren't preventive. Ask your provider if the services needed are preventive. Then check what your plan will pay for.
If you have a test	Diagnostic test (x-ray, blood work)	Designated Network: No Charge Non-network: 0% coinsurance	20% coinsurance	Preauthorization is required non-network for certain services or benefit reduces to 50% of allowed amount.
	Imaging (CT/PET scans, MRIs)	0% coinsurance	20% coinsurance	Preauthorization is required non-network or benefit reduces to 50% of allowed amount.

* For more information about limitations and exceptions, see the plan or policy document at welonstatewide.com.

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Common Medical Event	Services You May Need	What You Will Pay		Limitations, Exceptions, & Other Important Information
		Network Provider (You will pay the least)	Non-Network Provider (You will pay the most)	
<p>If you need drugs to treat your illness or condition</p> <p>More information about <u>prescription drug coverage</u> is available at www.cometouch.com</p>	Tier 1 – Your Lowest Cost Option	<p>Retail: \$15 <u>copay</u>, <u>deductible</u> does not apply.</p> <p>Mail-Order: \$30 <u>copay</u>, <u>deductible</u> does not apply.</p>	<p>Retail: 50% <u>coinsurance</u> with a \$50 <u>copay</u> minimum, <u>deductible</u> does not apply.</p>	<p><u>Provider</u> means pharmacy for purposes of this section. Retail: Up to a 31 day supply. Mail-Order: Up to a 90 day supply. You may need to obtain certain drugs, including certain <u>specialty drugs</u>, from a pharmacy designated by us. Certain drugs may have a <u>prior authorization</u> requirement or may result in a higher cost. If you use a <u>non-network</u> pharmacy (including a mail order pharmacy), you may be responsible for any amount over the <u>allowed amount</u>. Certain <u>preventive</u> medications (including certain contraceptives) are covered at <u>no charge</u>. See the website listed for information on drugs covered by your <u>plan</u>. Not all drugs are covered. You may be required to use a lower-cost drug(s) prior to benefits under your policy being available for certain prescribed drugs. If a dispensed drug has a therapeutically equivalent drug at a lower (i.e., the cost difference between drugs in addition to any applicable <u>copay</u> and/or <u>coinsurance</u>) may be applied.</p>
	Tier 2 – Your Mid-Range Cost Option	<p>Retail: \$30 <u>copay</u>, <u>deductible</u> does not apply.</p> <p>Mail-Order: \$60 <u>copay</u>, <u>deductible</u> does not apply.</p>	<p>Retail: 50% <u>coinsurance</u> with a \$60 <u>copay</u> minimum, <u>deductible</u> does not apply.</p>	
	Tier 3 – Your Mid-Range Cost Option	<p>Retail: \$60 <u>copay</u>, <u>deductible</u> does not apply.</p> <p>Mail-Order: \$120 <u>copay</u>, <u>deductible</u> does not apply.</p>	<p>Retail: 50% <u>coinsurance</u> with a \$60 <u>copay</u> minimum, <u>deductible</u> does not apply.</p>	
	Specialty drugs	25% <u>coinsurance</u> with a \$250 <u>copay</u> maximum, <u>deductible</u> does not apply.	25% <u>coinsurance</u> with a \$250 <u>copay</u> maximum, <u>deductible</u> does not apply.	
If you have outpatient surgery	Facility fee (e.g., ambulatory surgery center)	0% <u>coinsurance</u>	20% <u>coinsurance</u>	<p><u>Prior authorization</u> is required <u>non-network</u> for certain services or benefits reduces to 50% of <u>allowed amount</u>.</p> <p>None</p>
	Physician/surgeon fees	0% <u>coinsurance</u>	20% <u>coinsurance</u>	
If you need immediate medical attention	<u>Emergency room care</u>	\$150 <u>copay</u> per visit, <u>deductible</u> does not apply.	\$150 <u>copay</u> per visit, <u>deductible</u> does not apply.	None
	<u>Emergency medical transportation</u>	0% <u>coinsurance</u>	0% <u>coinsurance</u>	*Network deductible applies

* For more information about limitations and exceptions, see the plan or policy document at www.cometouch.com

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Common Medical Event	Services You May Need	What You Will Pay		Limitations, Exceptions, & Other Important Information
		Network Provider (You will pay the least)	Non Network Provider (You will pay the most)	
If you have a hospital stay	<u>Urgent care</u>	\$35 copay per visit, deductible does not apply.	20% coinsurance	If you receive services in addition to Urgent care visit, additional copays, deductibles, or coinsurance may apply e.g. surgery.
	Facility fee (e.g., hospital room)	0% coinsurance	20% coinsurance	Preauthorization is required non-network or benefit reduces to 50% of allowed amount.
	Physician/surgeon fees	0% coinsurance	20% coinsurance	None
If you need mental health, behavioral health, or substance abuse services	Outpatient services	\$15 copay per visit, deductible does not apply.	20% coinsurance	Network: Partial hospitalization/intensive outpatient treatment: 0% coinsurance. Preauthorization is required non-network for certain services or benefit reduces to 50% of allowed amount.
	Inpatient services	0% coinsurance	20% coinsurance	Preauthorization is required non-network or benefit reduces to 50% of allowed amount.
If you are pregnant	Office visits	No Charge	20% coinsurance	Cost sharing does not apply for preventive services. Depending on the type of service a copayment, coinsurance or deductible may apply. Maternity care may include tests and services described elsewhere in the SBC (i.e. ultrasound.)
	Childbirth/delivery professional services	0% coinsurance	20% coinsurance	
	Childbirth/delivery facility services	0% coinsurance	20% coinsurance	Inpatient preauthorization applies non-network if stay exceeds 48 hours (C-Section: 96 hours) or benefit reduces to 50% of allowed amount.
If you need help recovering or have other special health needs	<u>Home health care</u>	0% coinsurance	20% coinsurance	Limited to 60 visits per calendar year. Preauthorization is required non-network or benefit reduces to 50% of allowed amount.
	<u>Rehabilitation services</u>	\$20 copay per visit, deductible does not apply.	20% coinsurance	Limits per calendar year: Physical, Occupational, 30 visits each; Pulmonary: 20 visits; Speech: 20 visits; Cardiac: 36 visits
	<u>Habitative services</u>	\$20 copay per visit, deductible does not apply.	20% coinsurance	Services are provided under and limits are combined with Rehabilitation Services above.

* For more information about limitations and exceptions, see the plan or policy document at welcometouhc.com

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Common Medical Event	Services You May Need	What You Will Pay		Limitations, Exceptions, & Other Important Information
		Network Provider (You will pay the least)	Non Network Provider (You will pay the most)	
	<u>Skilled nursing care</u>	<u>0% coinsurance</u>	<u>20% coinsurance</u>	Limited to 60 days per calendar year (combined with inpatient rehabilitation). <u>Preauthorization</u> is required <u>non-network</u> or benefit reduces to 50% of allowed amount.
	<u>Durable medical equipment</u>	<u>0% coinsurance</u>	<u>20% coinsurance</u>	Covers 1 per type of DME (including repair/replacement) every 3 years. <u>Preauthorization</u> is required <u>non-network</u> for DME over \$1,000 or no coverage.
	<u>Hospice services</u>	<u>0% coinsurance</u>	<u>20% coinsurance</u>	<u>Preauthorization</u> is required <u>non-network</u> before admission for an Inpatient Stay in a hospice facility or benefit reduces to 50% of allowed amount.
If your child needs dental or eye care	Children's eye exam	\$30 copay per visit, deductible does not apply.	50% coinsurance	Limited to 1 exam every 24 months.
	Children's glasses	Not Covered	Not Covered	No coverage for Children's glasses.
	Children's dental check-up	Not Covered	Not Covered	No coverage for Children's Dental check-up.

Excluded Services & Other Covered Services:

Services Your Plan Generally Does NOT Cover (Check your policy or plan document for more information and a list of any other excluded services.)		
<ul style="list-style-type: none"> Acupuncture Bariatric surgery Cosmetic surgery Dental care Glasses 	<ul style="list-style-type: none"> Hearing aids Infertility treatment Long-term care Non-emergency care when traveling outside the U.S. 	<ul style="list-style-type: none"> Private duty nursing Routine foot care – Except as covered for Diabetes Weight loss programs
Other Covered Services (Limitations may apply to these services. This isn't a complete list. Please see your plan document.)		
<ul style="list-style-type: none"> Chiropractic (Manipulative care) – 12 visits per calendar year 		

* For more information about limitations and exceptions, see the plan or policy document at welcomejohnc.com.

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Your Rights to Continue Coverage: There are agencies that can help if you want to continue your coverage after it ends. The contact information for those agencies is: U.S. Department of Labor, Employee Benefits Security Administration at 1-866-444-3272 or www.dol.gov/ebsa, or the U.S. Department of Health and Human Services at 1-877-267-2323 x61565 or www.cms.gov. Other coverage options may be available to you too, including buying individual insurance coverage through the Health Insurance Marketplace. For more information about the Marketplace, visit www.HealthCare.gov or call 1-800-318-2556.

Your Grievance and Appeals Rights: There are agencies that can help if you have a complaint against your plan for a denial of a claim. This complaint is called a grievance or appeal. For more information about your rights, look at the explanation of benefits you will receive for that medical claim. Your plan documents also provide complete information on how to submit a claim, appeal, or a grievance for any reason to your plan. For more information about your rights, this notice, or assistance, contact the Member Service number listed on the back of your ID card or myhc.com or the Employee Benefits Security Administration at 1-866-444-3272 or dol.gov/ebsa/healthreform.

Additionally, a consumer assistance program may help you file your appeal. Contact dol.gov/ebsa/healthreform.

Does this plan provide Minimum Essential Coverage? **Yes**

Minimum Essential Coverage generally includes plans, health insurance available through the Marketplace or other individual market policies, Medicare, Medicaid, CHIP, TRICARE, and certain other coverage. If you are eligible for certain types of Minimum Essential Coverage, you may not be eligible for the premium tax credits.

Does this plan meet the Minimum Value Standards? **Yes**

If your plan doesn't meet the Minimum Value Standards, you may be eligible for a premium tax credit to help you pay for a plan through the Marketplace.

Language Access Services:

Spanish (Español): Para obtener asistencia en Español, llame al 1-866-633-2446.

Tagalog (Tagalog): Kung kailangan ninyo ang tulong sa Tagalog tumawag sa 1-866-633-2446.

Chinese (中文): 如果需要中文的帮助, 请拨打这个号码 1-866-633-2446.

Hawaiian (Dine): Dine'kehoo shika a'ichwof nini'noo kwi'ao hohe' 1-866-633-2446.

To see examples of how this plan might cover costs for a sample medical situation, see the next section.

* For more information about limitations and exceptions, see the plan or policy document at welcometohc.com.

About these Coverage Examples:



This is not a cost estimator. Treatments shown are just examples of how this plan might cover medical care. Your actual costs will be different depending on the actual care you receive, the prices your providers charge, and many other factors. Focus on the cost sharing amounts (deductibles, copayments and coinsurance) and excluded services under the plan. Use this information to compare the portion of costs you might pay under different health plans. Please note these coverage examples are based on self-only coverage.

Peg is Having a Baby (9 months of in-network pre-natal care and in-hospital delivery)		Managing Joe's type 2 Diabetes (1 year of routine in-network care of a well-controlled condition)		Mia's Simple Fracture (in-network emergency room visit and follow up care)	
■ The plan's overall deductible	\$500	■ The plan's overall deductible	\$500	■ The plan's overall deductible	\$500
■ Specialist copay	\$20	■ Specialist copay	\$20	■ Specialist copay	\$20
■ Hospital (facility) coinsurance	0%	■ Hospital (facility) coinsurance	0%	■ Hospital (facility) coinsurance	0%
■ Other coinsurance	0%	■ Other coinsurance	0%	■ Other coinsurance	0%
<p>This EXAMPLE event includes services like: Specialist office visits (pre-natal care) Childbirth/Delivery Professional Services Childbirth/Delivery Facility Services Diagnostic tests (ultrasounds and blood work) Specialist visit (anesthesia)</p>		<p>This EXAMPLE event includes services like: Primary care physician office visits (including disease education) Diagnostic tests (blood work) Prescription drugs Durable medical equipment (glucose meter)</p>		<p>This EXAMPLE event includes services like: Emergency room care (including medical supplies) Diagnostic test (x-ray) Durable medical equipment (crutches) Rehabilitation services (physical therapy)</p>	
Total Example Cost	\$12,700	Total Example Cost	\$5,600	Total Example Cost	\$2,800
In this example, Peg would pay:		In this example, Joe would pay:		In this example, Mia would pay:	
Cost Sharing		Cost Sharing		Cost Sharing	
Deductibles	\$500	Deductibles	\$150	Deductibles	\$500
Copayments	\$10	Copayments	\$900	Copayments	\$300
Coinsurance	\$0	Coinsurance	\$0	Coinsurance	\$0
What isn't covered		What isn't covered		What isn't covered	
Limits or exclusions	\$60	Limits or exclusions	\$0	Limits or exclusions	\$0
The total Peg would pay is	\$570	The total Joe would pay is	\$1,050	The total Mia would pay is	\$800

The plan would be responsible for the other costs of these EXAMPLE covered services.

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MEMORANDUM OF UNDERSTANDING
"ME TOO" CLAUSE

If total general wage increases for the top rate of pay for the bargaining unit members of the Youngstown Patrolmen Association ("YPA") are greater than four and one-half percent (4.5%) for 2022 and 2023, the top rate of pay for the classifications of firefighter, inspector, and the promoted ranks of the Youngstown Professional Firefighters, IAFF Local 312 ("IAFF") shall additionally receive the difference between the total YPA general wage increases for the top rate of pay and the total general wage increases previously agreed to between the City of Youngstown and the IAFF for the 2022 and 2023 period for the top rate of pay for the classifications of firefighter, inspector, and the promoted ranks, under the same (or as similarly as possible) terms as the YPA.

MEMORANDUM OF UNDERSTANDING

The City of Youngstown ("the City") and the Youngstown Professional Firefighters, IAFF Local 312 ("IAFF") hereby agree, on a non-precedent setting basis, to waive the terms under Article 13, Promotions, Section 1 of the Collective Bargaining Agreement ("CBA"), that state, "Subsequent hiring of additional employees after an involuntary assignment shall not act as a waiver of the mandatory five (5) year requirement," as it applies to the current assignments of Firefighters Alex Sepesy and Chase Kovacs ("FF Sepesy" and "FF Kovacs"). Specifically, the City and the IAFF agree that if and when the City hires new employees to the Youngstown Fire Department, FF Sepesy and FF Kovacs shall be permitted to return to line/response firefighter positions, if they so choose, and the resulting Inspector vacancy shall be filled in accordance with Article 13, Section 1 of the CBA. If a vacancy results from FF Sepesy and/or FF Kovacs returning to line/response firefighter position(s), and the least senior employee (i.e., new hire) must be assigned to the Inspector position, the IAFF agrees to reimburse the City the course costs of FF Sepesy and/or FF Kovacs obtaining State Certification for Inspector if the new hire assigned to the Inspector position does not already hold the State Certification for Inspector.

CITY OF YOUNGSTOWN

MAYOR JAMAE L TITO BROWN



DEPARTMENT OF LAW

JEFF LIMBIAN, DIRECTOR OF LAW

CITY HALL • 26 S. PHELPS STREET • YOUNGSTOWN, OHIO 44503

PHONE: (330) 742-8874 • FAX: (330) 742-8867

BOARD OF CONTROL

DOCUMENT NO.

B

21-922

TO: Board of Control

FROM: Jeff Limbian 

DATE: November 22, 2021

RE: Collective Bargaining Agreement between City of Youngstown
And the IAFF Local 312

Board of Control approval is respectfully requested for the Collective Bargaining Agreement between the City of Youngstown and IAFF Local 312 (Youngstown Professional Firefighters). Youngstown City Council ratified the Tentative Agreement through Ordinance No. 21-318. The term of the CBA is effective June 1, 2020 through May 31, 2023.

JL/cp

APPROVED AS TO FORM:

MAYOR JAMAE L TITO BROWN


DEPARTMENT OF LAW

ORD-21-318

MOVED TO 2nd RD.	_____
MOVED TO 3rd RD.	_____
COMMITTEE	_____
SUSPEND	<input checked="" type="checkbox"/>

AN ORDINANCE

RATIFYING THE TENTATIVE AGREEMENT BETWEEN INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, IAFF LOCAL 312 AND THE CITY OF YOUNGSTOWN; AND

PROVIDING THAT THIS ORDINANCE SHALL BE AN EMERGENCY MEASURE IF IT RECEIVES THE AFFIRMATIVE VOTE OF SIX OF THE MEMBERS OF COUNCIL; OTHERWISE, IT SHALL TAKE EFFECT AND BE IN FORCE FROM AND AFTER THE EARLIEST PERIOD ALLOWED BY LAW.

* * *

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF YOUNGSTOWN, STATE OF OHIO:

SECTION 1

That the tentative agreement between International Association of Firefighters, IAFF Local 312 and the City of Youngstown, be and the same is hereby ratified.

SECTION 2

That this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, welfare and safety, the emergency being the necessity to **ratify the tentative agreement between International Association of Firefighters, IAFF Local 312 and the City of Youngstown**, as above-described; and provided it receives the affirmative vote of six of the members elected to the legislative authority, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS 20th DAY OF October, 2021.



PRESIDENT OF COUNCIL

ATTEST:



CITY CLERK

APPROVED: THIS 21 DAY OF October, 2021.



MAYOR

Appendix D
Grievance Procedure

NO. 22-001

UNION IAFF 312

STEP 2

DEPARTMENT AND/OR DIVISION FIRE

DATE 2/4/2022

DATE RECEIVED BY THE CITY OF YOUNGSTOWN:

NAME OF PERSON RECEIVING SAME:

NAME OF GRIEVANT: IAFF Local 312 (Group Grievance)

POSITION HELD: N/A

CURRENT ASSIGNMENT: N/A

IF ANY DOCUMENT IS NECESSARY TO PROVE YOUR GRIEVANCE, PLEASE INDICATE
SAME

CBA, Emails, Attached Exposure Document(s)

DESCRIPTION OF GRIEVANCE, INCLUDING DATES

On January 24th, 2022, an email discussion between the Fire Chief, the Union President and Terri Shasho of risk outlined a problem regarding Covid exposures that has been unresolved. The Union President and Fire Chief have had multiple conversations trying to come up with a solution to the following Covid related issue. Members have been ordered to quarantine under varying circumstances due the recent spike in COVID-19. Chief Finley, under the direction of the City Health Commissioner Erin Bishop, has ordered members of these circumstances to quarantine at the expense of their own sick time. This has resulted in lost wages including the use of sick time, non-use of sick time bonus, sick accrual and holiday pay.

There are two issues that are addressed within this grievance. The first pertains to members of Local 312 who were ordered by The City to quarantine at their own expense. This resulted in those members using their own sick time, thus causing them to lose their wages and benefits referenced above. These members were not sick; they were healthy and asymptomatic.

The second issue pertains to members who were exposed to fellow firefighters while on duty, who tested positive, or were in direct contact with a COVID positive person on a call. These members were then ordered to use sick leave and then subsequently tested positive themselves, then ordered to quarantine and use their own sick time.

By ordering members to quarantine (on their own time) who did not contract COVID, The City has penalized those members for being at work doing their job. The issue is not the members being responsibly quarantined, it is that they are forced to use their contractually earned benefits in order to comply with The City's order to quarantine. Members should have been placed on some form of leave (ie. administrative leave, covid leave, American Rescue Plan funds paying for it, or something of the equivalent), not at their expense, in order to satisfy the financial aspect of the quarantine. These members should be made whole and credited back their wages in benefits referenced above.

Capt. Leslie Murphy 15C Lt. Carl Farina 9C Capt. John Casey 7A

FF. Ben Hendershott 22B FF. Josh Conklin 3A

Those members who tested positive after having a workplace exposure are also being penalized for doing their job. They contracted COVID after being exposed at work, then were required to use their contractually earned benefits to comply with the quarantine. This is an occupational disease exposure and therefore qualifies for IOD leave (Art. 18) and/or an occupational disease claim (Art. 19). Those members need all time referenced above back, and are considered exposure/ BWC claims.

Batt. Chief Charlie Smith B1B Capt. Jake Emery 24B

FF Sam Congemi 24B FF. Joe Stubbs 22B

The union views The City's actions of ordering members to use sick time as a form of discipline for members doing their job. They are being penalized for coming to work and subsequently being exposed to Covid. This is a violation of Article 11, section 1 and 2 of the CBA. Section 1 states, "No employee shall be reduced in pay or position,(including working suspensions) fined,(i.e.,forfeiture of accrued leave), suspended, discharged except for grounds stated in section 2 of this article." Since no member violated any rules/regs, policies or SOP's, they can not be unfairly fined or forced to use any contractual benefits given to them, including sick time.

Pursuant to Article 22 in the CBA, sick leave is an employee earned benefit to be used by the employee at their discretion. Nothing under the CBA permits the employer to force or order an employee to use sick leave when the employee is not sick or has not shown signs of being sick. The union maintains the position that these members who were ordered to quarantine, due to a workplace exposure, should be placed on some form of leave (as referenced above) to satisfy The City's order to quarantine, respectively.

****Attached to this document is the list of members who are currently affected. This list is not all inclusive as more members may have been exposed or may become exposed on a daily basis. This grievance will include those potential members as well.**

UNION REPRESENTATIVE

GRIEVANT

DATE:

COPIES TO: GRIEVANT; PRESIDENT OF UNION; DEPARTMENT HEAD; MAYOR'S DESIGNEE

AFFECTED MEMBERS

FF. Joe Stubbs 22B **12/22/21 exposed/quarantine/TESTED POSITIVE* 48 hours sick time, Christmas eve 8 hr holiday, 24 hours of Christmas Day holiday, 24 hours of overtime pay(prescheduled, forced to give up) Non use of sick leave bonus for the last quarter of 2021 (quarantined twice)**

Capt. Leslie Murphy 15C **12/23/21 exposed/quarantined/symptoms/tested negative 15 hours of sick time, 16 Hours of Holiday pay for Christmas eve. and Christmas day**

Capt. Jake Emery 24B **12/13/21 exposed/quarantined/ TESTED POSITIVE* 72 hours of sick time/ 8 hours holiday Christmas Eve/ 24 hours holiday Christmas Day/ 8 hours holiday New Years Day/ non use of sick bonus 4th quarter 2021**

FF. Sam Congemi 24B **12/25/21 exposed/quarantined/TESTED POSITIVE* 96 hours of sick time, 8 hours of holiday pay for New years day, 8 hours of holiday pay for MLK day, non- use of sick leave bonus for last quarter of 2021 and non use of sick leave bonus for 1st quarter of 2022**

Lt. Carl Farina 9C **1/1/2022 exposed/quarantined/No symptoms/no sickness 111 hrs of sick time, 15 hours of holiday pay, None use of sick leave bonus for 1st quarter of 2022**

Capt. John Casey 7A **1/1/2022 exposed/quarantined/No symptoms/tested negative 48 hours of sick time, 8 hours of holiday pay, non use of sick leave bonus for the 1 st quarter of 2022**

FF. Ben Hendershott 22B **1/1/2022 exposed/quarantined/No symptoms/ 24 hours of sick time, 8 hour of holiday pay,**

BC Charlie Smith B1B **1/1/2022 exposed/ quarantined/TESTED POSITIVE* 48 hours of sick time/ 8 hours holiday pay New Year's Day**

FF. Josh Conklin 3A **1/8/2022 exposed/quarantined/No symptoms 24 hours of sick time**

APPENDIX D (Continued)
GRIEVANCE PROCEDURE

CITY OF YOUNGSTOWN RESPONSE TO GRIEVANCE

NO. 22-001 STEP 2

NAME OF RESPONDENT Barry Finley

RANK AND /OR DESIGNATION TO PROCESS GRIEVANCE Fire Chief

DATE OF HEARING _____

RESPONSE TO CITY TO HEARING BEFORE DEPARTMENT HEAD OR HIS
REPRESENTATIVE

DISPOSITION

I am going to forward this grievance to the law department for the final decision, GRIEVANCE DENIED

SIGNATURE WITH RANK OR DESIGNATION

Barry F. Finley, Fire Chief

DATE 2-07-2022

Appendix D
Grievance Procedure

NO. **22-001**UNION **IAFF 312**STEP **3**DEPARTMENT AND/OR DIVISION **FIRE**DATE **2/18/2022**

DATE RECEIVED BY THE CITY OF YOUNGSTOWN:

NAME OF PERSON RECEIVING SAME:

NAME OF GRIEVANT: **IAFF Local 312 (Group Grievance)**POSITION HELD: **N/A**CURRENT
ASSIGNMENT: **N/A**

IF ANY DOCUMENT IS NECESSARY TO PROVE YOUR GRIEVANCE, PLEASE
 INDICATE SAME

CBA, Emails, Attached Exposure Document(s), Step 2
grievance

DESCRIPTION OF GRIEVANCE, INCLUDING DATES

On February 7th, 2022, Local 312 received the response from the step 2 grievance stating that it had been denied. Per CBA language, Local 312 will be escalating this grievance to step 3.

On January 24th, 2022, an email discussion between the Fire Chief, the Union President and Terri Shasho of risk outlined a problem regarding Covid exposures that has been unresolved. The Union President and Fire Chief have had multiple conversations trying to come up with a solution to the following Covid related issue. Members have been ordered to quarantine under varying circumstances due the recent spike in COVID-19. Chief Finley, under the direction of the City Health Commissioner Erin Bishop, has ordered members of these circumstances to quarantine at the expense of their own sick time. This has resulted in lost wages including the use of sick time, non-use of sick time bonus, sick accrual and holiday pay.

There are two issues that are addressed within this grievance. The first pertains to members of Local 312 who were ordered by The City to quarantine at their own expense. This resulted in those members using their own sick time, thus causing them to lose their wages and benefits referenced above. These members were not sick; they were healthy and asymptomatic.

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Capt. Leslie Murphy 15C Lt. Carl Farina 9C Capt. John Casey 7A

FF. Ben Hendershott 22B FF. Josh Conklin 3A

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Batt. Chief Charlie Smith B1B

Capt. Jake Emery 24B

FF Sam Congemi 24B

FF. Joe Stubbs 22B

The union views The City's actions of ordering members to use sick time as a form of discipline for members doing their job. They are being penalized for coming to work and subsequently being exposed to Covid. This is a violation of Article 11, section 1 and 2 of the CBA. Section 1 states, "No employee shall be reduced in pay or position,(including working suspensions) fined,(i.e.,forfeiture of accrued leave), suspended, discharged except for grounds stated in section 2 of this article." Since no member violated any rules/regs,

policies or SOP's, they can not be unfairly fined or forced to use any contractual benefits given to them, including sick time.

Pursuant to Article 22 in the CBA, sick leave is an employee earned benefit to be used by the employee at their discretion. Nothing under the CBA permits the employer to force or order an employee to use sick leave when the employee is not sick or has not shown signs of being sick. The union maintains the position that these members who were ordered to quarantine, due to a workplace exposure, should be placed on some form of leave (as referenced above) to satisfy The City's order to quarantine, respectively.

****Attached to this document is the list of members who are currently affected. This list is not all inclusive as more members may have been exposed or may become exposed on a daily basis. This grievance will include those potential members as well.**

UNION REPRESENTATIVE

GRIEVANT

DATE:

COPIES TO: GRIEVANT; PRESIDENT OF UNION; DEPARTMENT HEAD; MAYOR'S
DESIGNEE

MEMBERS

FF. Joe Stubbs 22B 12/22/21 exposed/quarantine/TESTED POSITIVE* 48 hours sick time, Christmas eve 8 hr holiday, 24 hours of Christmas Day holiday, 24 hours of overtime pay(prescheduled, forced to give up) Non use of sick leave bonus for the last quarter of 2021 (quarantined twice)

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FF. Sam Congemi 24B 12/25/21 exposed/quarantined/TESTED POSITIVE* 96 hours of sick time, 8 hours of holiday pay for New years day, 8 hours of holiday pay for MLK day, non- use of sick leave bonus for last quarter of 2021 and non use of sick leave bonus for 1st quarter of 2022

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BC Charlie Smith B1B 1/1/2022 exposed/ quarantined/TESTED POSITIVE* 48 hours of sick time/ 8 hours holiday pay New Year's Day

FF. Josh Conklin 3A 1/8/2022 exposed/quarantined/No symptoms 24 hours of sick time

**CITY OF YOUNGSTOWN
DECISION of the MAYOR'S DESIGNEE**

Bargaining Unit: I.A.F.F. Local 312
Grievance No.: 22-001
Date Received: 02/18/2022 – Received at Step 3
Name of Grievant: I.A.F.F. Local 312 Group Grievance

DECISION

1. The Union claims that the group grievance members (members) have been penalized by the Employer by having to utilize their earned sick leave benefits when being required by the Employer to temporarily quarantine after being exposed to Covid-19 and/or after contracting Covid-19.
2. The Union states that “the issue is not the members being responsibly quarantined” as ordered by Employer pursuant to the Youngstown Health Department or Ohio Department of Health emergency directives. Rather, the Union alleges that, by requiring the members to use their earned sick leave while in quarantine, the Employer has engaged in a form of punishment and thus has committed a violation of Article 11 (Discipline) of the contract.
3. The Union asserts that the group members were exposed to, or contracted, Covid-19 while on duty. The Union alleges that any exposure to Covid-19 while on duty is an occupational disease and qualifies for IOD leave under Article 18 and/or Article 19 of the contract.
4. Therefore, the Union claims the affected members “are considered exposure/BWC claims” and are entitled to have their sick leave, which they used when being temporarily quarantined, reconstituted to their respective sick leave banks.
5. The Employer is unaware, however, of any claims made by any of the group members for benefits under Article 18 (IOD), Article 19 (Occupational Disease), or to participate in the BWC benefits program for either an exposure to Covid-19 or contracting Covid-19 while in the scope of performing their work duties.
6. Moreover, no information was presented in the grievance which would indicate that the Employer somehow prohibited or interfered with the members’ ability to submit such claims. Yet no such claims have been submitted pursuant to the processes set forth in the contract or applicable statute(s). In the event such claims are made, the contract provides for employer reimbursement of benefits to qualifying employees.

7. Finally, contrary to the Union's assertion that earned sick leave may be "used by the employee at their discretion," paid sick leave is provided so that employees, Union or otherwise, can stay home from work to address health concerns without losing pay. It is intended to be utilized for health-related purposes. This is supported by the language in Article 22 (Sick Leave), which clearly contemplates limitations and oversight of an employee's use (or abuse) of earned sick leave, along with the general language in Article 4 (Management Rights).

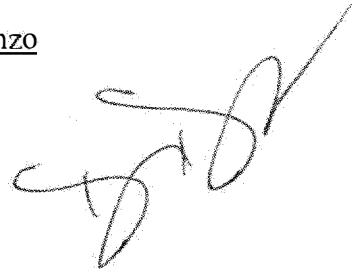
8. The Employer did not engage in disciplinary action against the members when it required employees, who were off work due to health-related reasons, to utilize their earned sick leave. No violation of Article 11 occurred.

9. Grievance No. 22-001 is denied at Step 3.

10. Grievant may refer to Article 10, Section 4, Step 4 regarding its respective right to advance this matter to Step 4 (Arbitration), if it so chooses.

Dated: 03/03/2022

/s/ Daniel P. Dascenzo
Mayor's Designee



Copies electronically delivered on this date to the following:
Chief Barry Finley (YFD Fire Chief)
Captain Jon Racco (IAFF Local 312 President)



Youngstown Professional Firefighters
IAFF Local 312

Attorney Dascenzo,

4/4/22

Upon review of the City's Step 3 response to Grievance 22-001, Local 312 respectfully requests the grievance and arbitration process be held in abeyance pending Arbitrator Nowel's decision in FMCS Case No. 210319-05026 (COVID Leave). With the City's agreement, the Union's timeline to advance Grievance 22-001 to arbitration would be stayed. The Union's timeline to advance Grievance 22-001 would begin following the issuance of Arbitrator Nowel's award. Please advise if the City agrees to holding Grievance 22-001 in abeyance as requested. Thank you.

With Regards,

Jon Racco

Group Grievance 22-001

Jon Racco, Local 312 Union President

Muskovitz
Lemmerbrock LLC
ATTORNEYS AT LAW

Brooks W. Boron

boron@mlabor.com

April 4, 2022

VIA EMAIL (jlimbian@youngstownohio.gov)

Jeff Limbian, Law Director
City of Youngstown, City Hall
26 South Phelps Street
Youngstown, Ohio 44503

RE: IAFF Local 312 and City of Youngstown
Grievance Nos. 22-001 (COVID Group Grievance)

Dear Law Director Limbian:

On or about March 10, 2022, the Union received the City's Step 3 response to Local 312's Grievance No. 22-001, notifying Local 312 that it was denying the grievance.

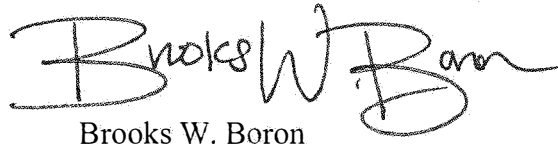
Per Article 10, Section 4 of the Collective Bargaining Agreement, please accept this as notice of Local 312's intent to proceed to arbitration on Grievance No. 22-001. Below is the signed approval of Local 312's President.

Article 10, Section 4 of the CBA directs the parties to confer for the purpose of mutually agreeing upon an arbitrator. If the City would like to discuss an agreed upon arbitrator appointment, please let me know when the City's representative is available for a conference call. Otherwise, Local 312 will proceed with requesting an arbitration panel.

If you would like to discuss this matter at all, or if the City has any thoughts on an amicable resolution, please feel free to contact me.

Respectfully,

MUSKOVITZ & LEMMERBROCK, LLC



Brooks W. Boron



Jeff Limbian
Law Director
April 4, 2022
Page -2-

Signed Approval to Proceed with Arbitration:

Jon Racco / via permission

Jon Racco, President
Youngstown Firefighters, IAFF Local 312

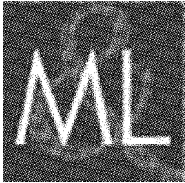
BWB6632

cc: (via email)
Jon Racco, President, Youngstown Firefighters, IAFF Local 312
Barry Finley, Fire Chief, Youngstown Fire Department
Dan Dascenzo, Assistant Law Director, City of Youngstown

From: Brooks Boron
Sent: Tuesday, April 26, 2022 12:33 PM
To: Dascenzo, Daniel
Cc: Jon Racco; Brooks Boron
Subject: RE: Notice of Arbitration - Grievance 22-001
Attachments: Panel.pdf

Thanks, Dan. Attached is the FMCS Panel, you should have been sent one from FMCS directly as well.

Best,



Brooks W. Boron, Esq.
 Muskovitz & Lemmerbrock, LLC
www.mllabor.com

boron@mllabor.com

The BF Keith Building - 1621 Euclid Avenue, Suite 1750 - Cleveland, Ohio 44115
 Ph: 216.621.2020 - Fax: 216.621.3200

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From: Dascenzo, Daniel <ddascenzo@youngstownohio.gov>
Sent: Tuesday, April 26, 2022 12:10 PM
To: Brooks Boron <Boron@mllabor.com>
Cc: Jon Racco <jonrac312@gmail.com>
Subject: RE: Notice of Arbitration - Grievance 22-001

Brooks –

You can request an FMCS panel.

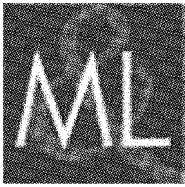
Thanks,
 DD

From: Brooks Boron <Boron@mllabor.com>
Sent: Tuesday, April 19, 2022 2:47 PM
To: Dascenzo, Daniel <ddascenzo@youngstownohio.gov>
Cc: Jon Racco <jonrac312@gmail.com>; Brooks Boron <Boron@mllabor.com>
Subject: RE: Notice of Arbitration - Grievance 22-001

Dan,

I agree that Nowel has the background knowledge that could be beneficial for consistency and efficiency of a hearing. Would the City be agreeable to mutually selecting Nowel? If yes, I can send out a letter notifying him of the appointment. If not, please let me know and I will request an FMCS panel. Thanks.

Best,



Brooks W. Boron, Esq.
Muskovitz & Lemmerbrock, LLC
www.mllabor.com

boron@mllabor.com
The BF Keith Building - 1621 Euclid Avenue, Suite 1750 - Cleveland, Ohio 44115
Ph: 216.621.2020 - Fax: 216.621.3200

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From: Dascenzo, Daniel <ddascenzo@youngstownohio.gov>
Sent: Monday, April 18, 2022 1:36 PM
To: Brooks Boron <Boron@mllabor.com>
Cc: Jon Racco <jonrac312@gmail.com>; Brooks Boron <Boron@mllabor.com>
Subject: Re: Notice of Arbitration - Grievance 22-001

Hi Brooks. I'm out of town this week. I'm working remotely, sort of. Is there anyone you had in mind you'd like to suggest. Tom Nowel has some good background knowledge regarding our Covid quarantine issues, but I'm still bothered by the way he came up with the Kelly award. Not that he gave her an award, just how he got there. So I'm a bit reluctant to agree on him right now. Maybe it's best to request a panel and we can maybe agree on someone from the list. Thanks

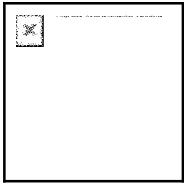
Get [Outlook for iOS](#)

From: Brooks Boron <Boron@mllabor.com>
Sent: Monday, April 18, 2022 12:09:13 PM
To: Dascenzo, Daniel <ddascenzo@youngstownohio.gov>
Cc: Jon Racco <jonrac312@gmail.com>; Brooks Boron <Boron@mllabor.com>
Subject: RE: Notice of Arbitration - Grievance 22-001

Dan,

I hope you are doing well. Would you like to discuss mutually selecting an arbitrator? Or would you prefer that I request a panel from FMCS? Thanks.

Best,



Brooks W. Boron, Esq.
Muskovitz & Lemmerbrock, LLC
www.mllabor.com

boron@mllabor.com

The BF Keith Building - 1621 Euclid Avenue, Suite 1750 - Cleveland, Ohio 44115
Ph: 216.621.2020 - Fax: 216.621.3200

***** CONFIDENTIAL COMMUNICATION *****

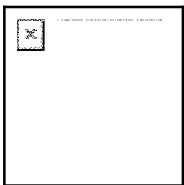
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From: Brooks Boron <Boron@mllabor.com>
Sent: Monday, April 4, 2022 4:36 PM
To: jlimbian@youngstownohio.gov
Cc: Daniel Dascenzo <ddascenzo@youngstownohio.gov>; Jon Racco <jonrac312@gmail.com>; Finley, Barry <bfinley@YoungstownOhio.gov>; Ryan Lemmerbrock <lemmerbrock@mllabor.com>; Brooks Boron <Boron@mllabor.com>
Subject: Notice of Arbitration - Grievance 22-001

Good afternoon,

Please find attached correspondence concerning the Union's intent to proceed to arbitration on Grievance 22-001. Thank you.

Best,



Brooks W. Boron, Esq.
Muskovitz & Lemmerbrock, LLC
www.mllabor.com

boron@mllabor.com

The BF Keith Building - 1621 Euclid Avenue, Suite 1750 - Cleveland, Ohio 44115
Ph: 216.621.2020 - Fax: 216.621.3200

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From: arbsvc@fmcs.gov
Sent: Monday, May 9, 2022 4:25 PM
To: MGOLDLAW.GOLDBERG@GMAIL.COM
Cc: ddascenzo@youngstownohio.gov; Brooks Boron
Subject: Appointment for case #220426-05515
Attachments: Appointment.pdf

Goldberg, Mitchell B you have been appointed to Case #220426-05515.

Employer: City of Youngstown
Employer Rep: Dascenzo, Daniel
Phone: (330)742-8874
Email: ddascenzo@youngstownohio.gov

Union: Youngstown Firefighters IAFF
Union Rep: Boron, Brooks W
Phone: (216)621-2020
Email: boron@mllabor.com

If you are unable to view the attachment Login at <https://arbitration.fmcs.gov>. On your home page under Open Appointed Cases click the button to Re-print Appointment Letter.

IMPORTANT: Please do not respond to this email address. It is not monitored. To notify us, email arbitration@fmcs.gov or call 202-606-5111.

FEDERAL MEDIATION AND CONCILIATION SERVICE
UNITED STATES GOVERNMENT
WASHINGTON, DC 20427

05/09/2022

Mitchell Goldberg
253 East Aurora Road
Northfield, OH 44067

Case Number: 220426-05515
Issue: Grievance 22-001 - COMD - Mandatory Quarantine
Dispute Site: Youngstown, Ohio 44503

Dear Mitchell Goldberg:

The Federal Mediation and Conciliation Service (FMCS) has appointed you to hear the above matter by authority of the parties' collective bargaining agreement and/or our regulations, or in response to a joint request by the parties. **Please be sure to contact the parties within 14 days as we require.**

When the case has ended for whatever reason (award issued, invoice without an award, settlement or withdrawal of claim), you are required to indicate that the case has ended and, in the case of an award or final invoice without award, to submit the online R-19 form within 15 days of submitting your award to the parties or of otherwise learning that the case has ended. The button for ending the case may be found in your account under the case by clicking the button that reads "**Click Here If Case Has Ended.**" Once you click the button, follow the instructions provided.

In accordance with FMCS policies, your award must be issued to the parties within sixty (60) days after the close of the record, unless otherwise agreed upon by the parties or specified by the collective bargaining agreement or law. Also, you must inform the parties and this office in writing of any anticipated delay rendering the decision.

Sincerely,

Wright, Shakima
Case Administrator
Phone: (202)606-5329
Email: swright@fmcs.gov

Dascenzo, Daniel
City of Youngstown
26 South Phelps St.
Youngstown, OH 44503

Phone: (330)742-8874
Email: ddascenzo@youngstownohio.gov

Boron, Brooks W
Youngstown Firefighters IAFF 312
1621 Euclid Avenue
Suite 1750
Cleveland, OH 44115
Phone: (216)621-2020
Email: boron@mllabor.com

From: Dascenzo, Daniel <ddascenzo@youngstownohio.gov>
Sent: Monday, May 16, 2022 9:14 AM
To: mitch goldberg; Brooks Boron
Subject: RE: Youngstown-IAFF 312, FMCS No. 22-05515

Okay by me. Thanks

Dan Dascenzo

From: mitch goldberg <mgoldlaw.goldberg@gmail.com>
Sent: Monday, May 16, 2022 9:04 AM
To: Brooks Boron <Boron@mllabor.com>
Cc: Dascenzo, Daniel <ddascenzo@youngstownohio.gov>
Subject: Re: Youngstown-IAFF 312, FMCS No. 22-05515

Let's go with August 4 and 5. Please confirm? MBG

On May 16, 2022, at 9:01 AM, Brooks Boron <Boron@mllabor.com> wrote:

I unfortunately am unavailable July 29th. How does August 4th and 5th work? I think we may want to schedule two days just to be safe.

Best,

<image001.jpg> **Brooks W. Boron, Esq.**
 Muskovitz & Lemmerbrock, LLC
www.mllabor.com

boron@mllabor.com
 The BF Keith Building - 1621 Euclid Avenue, Suite 1750 - Cleveland, Ohio 44115
 Ph: 216.621.2020 - Fax: 216.621.3200

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From: mitch goldberg <mgoldlaw.goldberg@gmail.com>
Sent: Monday, May 16, 2022 8:54 AM
To: Dascenzo, Daniel <ddascenzo@youngstownohio.gov>
Cc: Brooks Boron <Boron@mllabor.com>
Subject: Re: Youngstown-IAFF 312, FMCS No. 22-05515

The Union?

Sent from my iPhone

On May 13, 2022, at 5:48 PM, Dascenzo, Daniel <ddascenzo@youngstownohio.gov> wrote:

Arbitrator Goldberg -

Good evening. Thank you for providing a selection of possible dates. July 29, 2022 works for employer. August is also wide open.

Thanks,
Dan Dascenzo

Get Outlook for iOS

From: Brooks Boron <Boron@mllabor.com>
Sent: Friday, May 13, 2022 4:56:28 PM
To: mitch goldberg <mgoldlaw.goldberg@gmail.com>; Dascenzo, Daniel <ddascenzo@youngstownohio.gov>
Cc: Brooks Boron <Boron@mllabor.com>
Subject: RE: Youngstown-IAFF 312, FMCS No. 22-05515

Arbitrator Goldberg,

Thank you for providing those dates. I am checking with my client and will provide the Union's availability as soon as possible. Thank you and have a nice weekend!

Best,

Brooks W. Boron, Esq.
Muskovitz & Lemmerbrock, LLC
www.mllabor.com

boron@mllabor.com
The BF Keith Building - 1621 Euclid Avenue, Suite 1750 - Cleveland, Ohio 44115
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-----Original Message-----

From: mitch goldberg <mgoldlaw.goldberg@gmail.com>

Sent: Tuesday, May 10, 2022 10:25 AM

To: ddascenzo@youngstownohio.gov; Brooks Boron <Boron@mlabor.com>

Subject: Youngstown-IAFF 312, FMCS No. 22-05515

I accept the appointment to serve as the arbitrator of the above grievance. I am available for a hearing on the following dates: June 2, 3, 16, 17; July 5-7, 12, 15, 29; and any date in August except 15, Please select a date at your earliest convenience. You may email the selection and I will confirm it. These dates have been offered in other matters, first come, first served. Enclosed is my Information Sheet/Schedule of Charges and a consent form for publication of the award. I appreciate the opportunity to serve the parties and their representatives.

From: Dascenzo, Daniel <ddascenzo@youngstownohio.gov>
Sent: Tuesday, May 24, 2022 10:21 AM
To: Brooks Boron
Subject: RE: Youngstown-IAFF 312, FMCS No. 22-05515

Brooks –

Good morning. Yes, the City intends to file a motion. I'm extremely busy the next week and my oldest has Covid so I'm doing what I can to keep my head above water. I'm trying to get something filed by the first of the month. If you have something already drafted and want to get it filed sooner, I understand. Regarding the arbitrator deciding the issue, I'll respectfully decline.

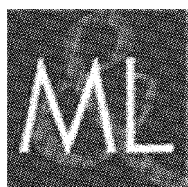
Thanks,
 Dan

From: Brooks Boron <Boron@mllabor.com>
Sent: Tuesday, May 24, 2022 10:04 AM
To: Dascenzo, Daniel <ddascenzo@youngstownohio.gov>
Cc: Brooks Boron <Boron@mllabor.com>
Subject: RE: Youngstown-IAFF 312, FMCS No. 22-05515

Good morning Dan,

I am following up on this matter to see what the City's plans are with regard to this arbitrability issue. Do you plan on filing something with the Court? Does the Union need to move to compel arbitration? I hope that we can avoid the extra time and resources of court actions and I suggest that we submit the arbitrability issue to Arbitrator Goldberg. Please advise. Thank you.

Best,



Brooks W. Boron, Esq.
 Muskovitz & Lemmerbrock, LLC
www.mllabor.com

boron@mllabor.com

The BF Keith Building - 1621 Euclid Avenue, Suite 1750 - Cleveland, Ohio 44115
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From: Dascenzo, Daniel <ddascenzo@youngstownohio.gov>
Sent: Tuesday, May 17, 2022 1:01 PM

To: mitch goldberg <mgoldlaw.goldberg@gmail.com>; Brooks Boron <Boron@mlabor.com>

Subject: RE: Youngstown-IAFF 312, FMCS No. 22-05515

Good afternoon.

Sorry for the delay in responding. I'm in contract negotiations with another bargaining unit and have been tied up most of yesterday and today. Thank you Arbitrator Goldberg for your reply. To clarify Employer's position, the issues related to arbitrability are wholly substantive in nature.

With regard to Mr. Boron's reference to what the parties have done in the past, I believe Mr. Boron is referring to language from prior contracts, which required questions on arbitrability to first be determined by the arbitrator, rather than the court. The current contract, under which this grievance was filed, does not contain such language. This preliminary email exchange being neither the time nor place to argue facts or refer to documents that our Arbitrator has not yet had the opportunity to become familiar with, I can only state that Employer intends to seek a determination on the issue of substantive arbitrability from the Court.

I will contact Attorney Boron to discuss the matter in more detail and if we are able to come up with something that does not involve a court filing, we'll let you know right away.

Respectfully,

Daniel P. Dascenzo
Deputy Law Director
City of Youngstown
(330) 742-8874 Phone
(330) 742-8867 Fax



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From: mitch goldberg <mgoldlaw.goldberg@gmail.com>

Sent: Tuesday, May 17, 2022 8:59 AM

To: Brooks Boron <Boron@mlabor.com>

Cc: Dascenzo, Daniel <ddascenzo@youngstownohio.gov>

Subject: Re: Youngstown-IAFF 312, FMCS No. 22-05515

While I do not know the facts or the issues raised by this grievance, I am concerned about my responsibility as an arbitrator to adhere to the goal of conducting a speedy and efficient resolution of the labor dispute. If there is an issue of whether the dispute is substantively arbitrable, the issue is for the court to decide unless the parties stipulate that the arbitrator is to make the determination. Absent such an agreement, substantive arbitrability

may be reserved by one party for court decision even after the arbitrator's award. Issues of procedural arbitrability are properly before the arbitrator to decide. If the Employer believes there is a substantive issue, it should proceed to file a court action in a timely manner if it does not agree to submit the issue to me, or otherwise reserve its claim. If there is an unreasonable delay, the Union may file its own action for the court to compel arbitration. Again, my responsibility is to move this matter along, and to avoid any unreasonable delays in resolving this dispute. MBG

On May 16, 2022, at 2:19 PM, Brooks Boron <Boron@mllabor.com> wrote:

Good afternoon,

This is the first time that the Union has learned that the City is challenging the arbitrability of the grievance. The City never raised this issue during the grievance procedure. In fact, in the City's Step 3 decision, the City invited the Union to refer to Article 10, Section 4, Step 4 "regarding its respective right to advance this matter to Step 4 (Arbitration), if it so chooses." The City also never raised this issue following the Union's notice of its intent to arbitrate or when the parties were discussing selecting an arbitrator. I am unaware of what arbitrability challenge—whether procedurally or substantively—the City is now alleging with this grievance. Dan, can you please provide further insight into what arbitrability issues the City has with this grievance?

Additionally, as the parties have done in the past, it is the Union's position that the parties should address any arbitrability issues at the hearing on the merits. There is no need to bifurcate the hearing or proceed to court when the issue of arbitrability can be resolved by the arbitrator.

If you would like to discuss this further with the parties, I am happy to schedule a Zoom conference to discuss. Thank you.

Best,

<image002.jpg> **Brooks W. Boron, Esq.**
Muskovitz & Lemmerbrock, LLC
www.mllabor.com

boron@mllabor.com
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From: Dascenzo, Daniel <ddascenzo@youngstownohio.gov>
Sent: Monday, May 16, 2022 1:51 PM
To: mitch goldberg <mgoldlaw.goldberg@gmail.com>; Brooks Boron <Boron@mllabor.com>
Subject: RE: Youngstown-IAFF 312, FMCS No. 22-05515

Gentlemen,

I have to request that the proposed arbitration hearing date not be set at this time. I wanted to message before confirmation from Union. I was unaware that this matter is being handled by employer's outside counsel. After speaking with counsel, it was conveyed that neither August 4 or 5 is available for a hearing and also that the arbitrability of this grievance is going to be challenged. As such, considering it cannot be determined how long the court may take to determine the issue, it doesn't make any sense to have a hearing date set on all calendars until a determination on that threshold issue has been addressed by the court. I apologize for the misunderstanding.

Respectfully,

Daniel P. Dascenzo
Deputy Law Director
City of Youngstown
(330) 742-8874 Phone
(330) 742-8867 Fax

<image003.png>

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From: mitch goldberg <mgoldlaw.goldberg@gmail.com>
Sent: Monday, May 16, 2022 9:04 AM
To: Brooks Boron <Boron@mlabor.com>
Cc: Dascenzo, Daniel <ddascenzo@youngstownohio.gov>
Subject: Re: Youngstown-IAFF 312, FMCS No. 22-05515

Let's go with August 4 and 5. Please confirm? MBG

On May 16, 2022, at 9:01 AM, Brooks Boron <Boron@mlabor.com> wrote:

I unfortunately am unavailable July 29th. How does August 4th and 5th work? I think we may want to schedule two days just to be safe.

Best,

<image001.jpg>

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www.mlabor.com

boron@mlabor.com

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From: mitch goldberg <mgoldlaw.goldberg@gmail.com>

Sent: Monday, May 16, 2022 8:54 AM

To: Dascenzo, Daniel <ddascenzo@youngstownohio.gov>

Cc: Brooks Boron <Boron@mlabor.com>

Subject: Re: Youngstown-IAFF 312, FMCS No. 22-05515

The Union?

Sent from my iPhone

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Arbitrator Goldberg -

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Thanks,
Dan Dascenzo

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From: Brooks Boron <Boron@mlabor.com>

Sent: Friday, May 13, 2022 4:56:28 PM

To: mitch goldberg <mgoldlaw.goldberg@gmail.com>; Dascenzo, Daniel
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Cc: Brooks Boron <Boron@mlabor.com>

Subject: RE: Youngstown-IAFF 312, FMCS No. 22-05515

Arbitrator Goldberg,

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-----Original Message-----

From: mitch goldberg <mgoldlaw.goldberg@gmail.com>

Sent: Tuesday, May 10, 2022 10:25 AM

To: ddascenzo@youngstownohio.gov; Brooks Boron
<Boron@mllabor.com>

Subject: Youngstown-IAFF 312, FMCS No. 22-05515

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