

**COLLECTIVE BARGAINING AGREEMENT**

**BETWEEN**

**THE CITY OF AVON PARK**

**AND**

**AVON PARK PROFESSIONAL FIREFIGHTERS ASSOCIATION**

**LOCAL 3132**

**2013-2016**

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## **ARTICLE 1 -- PREAMBLE**

This Agreement is entered into by and between the City of Avon Park, State of Florida, hereinafter referred to as the City, and the Avon Park Professional Firefighters, Local 3132, hereinafter referred to as the Firefighters for the purpose of promoting harmonious relations between the City and the Firefighters, to establish an orderly and peaceful procedure to settle differences, which might arise, and to set forth the basic and full agreement between the parties concerning rates of pay, hours of work and overtime, and other conditions of employment as provided by law.

Therefore, the parties mutually and in good faith agree to the following:

## **ARTICLE 2 -- RECOGNITION**

Section 1: The City recognizes the Firefighters as the exclusive bargaining representative for all and regular paid employees in the unit certified by the Public Employees Relations Commission (PERC) in Case No. RA-88-003.

Section 2: The Firefighters recognize the Mayor and the City Council as the elected representatives of the citizens of the City of Avon Park and the legally constituted authority responsible for determining the purpose, mission and operation of the City.

Section 3: The City and the Firefighters subscribe to the principle that differences shall be resolved by peaceful and appropriate means without interruptions of the services provided.

## **ARTICLE 3 -- NON-DISCRIMINATION**

Section 1: All references in this Agreement to employees of the male gender are used for convenience only, and shall be construed to include both male and female employees.

Section 2: The right of the employees to belong to, participate in or refrain from belonging to the Firefighters shall not be prohibited, abridged or interfered with.

Section 3: The Firefighters will not discriminate with regard to representations of its bargaining unit members, nor with regard to terms and conditions of membership because of race, color, creed, sex,

age, physical handicap, national origin, marital status or political affiliation.

#### **ARTICLE 4 -- MANAGEMENT RIGHTS**

Section 1 - General: The management of the City and the direction of its work force, including but not limited to the exclusive rights to determine whether all or any part of the operations covered by this Agreement shall commence, cease, continue, reduce or increase operations; to remove the operation or any part thereof to any location; to close, combine or eliminate departments, divisions, offices, or other subdivisions or part of City government; to establish new jobs or employees, to change materials, processes, products, service, equipment, production and work schedules, and methods of operation; to introduce new materials, equipment, service or facilities to assign work to be performed; to assign or reassign shifts, create or abolish shifts, and rotate shifts, to require employees to work overtime; to establish and change hiring procedures, to determine and change standards of fitness of employees to perform work; sell, franchise out or otherwise dispose of any or all work, operation or part thereof; to set the work schedules, to transfer employees from job to job, either on a permanent or temporary basis; to evaluate and direct the work of the employees covered by this Agreement; to maintain, enforce, rescind or change City and Department policies, procedure, rules of conduct, orders, practices, directives and other operational procedures, policies and guides not inconsistent with this Agreement; to establish the standards of conduct and work of employees; to establish or change operational standards; to determine the services to be provided by the City and the functions of all parts of City government and all City employees; to lay off, discipline, discharge employees, to lay off employees from duty for lack of work or for other operational reasons; to establish requirements for employment; to promote and demote employees; to be the sole judge of applicants for employment; and to have complete authority to exercise those rights and powers incidental thereto, including the right to alter or vary past practices as the City may determine to be necessary for the orderly and efficient operations of the City, shall be vested exclusively in the City, subject only to such restrictions governing the exercise of these rights as are expressly and specifically provided in this Agreement.

The City's failure to exercise any right hereby reserved to it or its exercising any right in a particular way shall not be deemed a waiver of its right to exercise such right nor preclude the City from exercising the same in some other way not in conflict with the express provisions of this Agreement. It is understood that the union does not waive any right to negotiate concerning the impact of any unilateral decision allowed under this contract by the City affecting pay or job security.

Section 1A - Contracting Out: In the event the City contracts or assigns the work of the bargaining unit to a third party, every effort will be made to place members of the bargaining unit for employment with said third party contractor or assignee.

Section 2 - Emergencies: If, in the sole discretion of the City Council or City Manager, it is determined that a civil emergency condition exists, including but not limited to riots, civil disorders, hurricane conditions or other catastrophes, the provisions of this Agreement may be suspended by the City Council during the time of the declared emergency, provided that wage rates and monetary fringe benefits shall not be suspended.

Section 3 - Job Duties: It is understood by the parties that every incidental duty connected with operations enumerated in job descriptions is not always specifically described and employees, at the discretion of management, may be required to perform other job-related duties not specifically contained in their job descriptions.

Section 4 - Firefighter Cooperation: Delivery of municipal services in the most efficient, effective and courteous manner is of paramount importance to the City of Avon Park. Accordingly, the Firefighters Union agrees that it will instruct its members to work diligently in order that the services performed meet the above standards.

Section 5 - Inherent Rights: Those inherent managerial functions, prerogatives and policy-making rights which the City has not expressly modified or restricted by a specific provision of this Agreement are not in any way subject to the grievance and/or arbitration procedure contained herein.

Section 6 - Changes in Policies and Rules: In the spirit of continued harmonious relations between the Firefighters and the City, the City agrees to provide a notice to the Firefighters of any change in City policies or rules of general application to all employees and departmental policy, new policy or work rules prior to implementation, which would affect members of the bargaining unit. The Firefighters will have five calendar days to file any objections to the proposed changes with the City Manager or the Public Safety Director respectively; who shall consider said objections before he makes his final decision.

Section 7 - Civil Service Rules: The Civil Service Act of the City of Avon Park shall not apply to bargaining unit employees.

Section 8 - Personnel Rules: The Personnel Rules of the City of Avon Park shall not apply to bargaining unit employees.

## **ARTICLE 5 -- FIREFIGHTERS BUSINESS**

Section 1 - Notice: The Firefighters shall notify the City Manager in writing of the names of its representatives. The City agrees that it will deal only with the authorized representatives of the Firefighters in matters requiring mutual consent or other official action called for by this Agreement. Names of the Firefighters representatives shall be posted on the Firefighters bulletin board.

Section 2 - Activities: Neither Firefighters' representatives nor unit employees shall leave their posts or work stations for the purpose of investigating, handling or settling grievances without the permission of the Public Safety Director or his designee. Firefighters' representatives shall not contact any employee or other person concerning grievance matters or Firefighters' business during either the working hours of the Firefighters representative or the working hours of any employee sought to be contacted without the expressed written permission of the Public Safety Director or his designee.

Section 3 - Visitation: The City Manager shall permit an authorized representative of the Firefighters to have reasonable access to the Fire Department and all relevant City records subject to the Sunshine Law to conduct Firefighters business, provided that such visits do not disrupt routine operations as determined by the Public Safety Director or his designee, or the ranking non-bargaining unit employee in the department or area where access is sought. Any authorized representative of the Firefighters desiring to have access to the department shall first meet with and obtain written permission from the Public Safety Director, or his/her designee, before going into any working area. The Firefighters' representative will not in any way interfere with the work of employees or the operation of the department.

Section 4 - Bulletin Board: The City shall provide bulletin board space (3'x5') for the exclusive use of the Firefighters for the posting of notices of Union meetings and official Union business; however, nothing shall be posted which contains foul or abusive language; political advertisements or endorsements, business advertisements, personal solicitation, or any matter that is detrimental to any individuals or to the City. A copy of any materials to be posted on the bulletin board as specified above shall be sent to the office of the City Manager at the time of such postings. All notices shall be signed by the president of the Firefighters or an authorized representative so designated in writing by

the Firefighters.

Section 5 - Copies of Agreement: The City shall furnish each member of the bargaining unit and the Firefighters with a copy of this Agreement. The cost of said copies shall be shared equally by the parties.

Section 6 - Stewards: The Union shall have the right to appoint one (1) job steward and one (1) assistant steward for each shift on which the job steward does not work. The Union will notify the City, in writing, as to the identity of each steward and alternate steward who must be bargaining unit employees of the City on the active payroll. The activities of stewards shall in no way interfere with their duties as employees or the work of other employees. Stewards and alternate stewards will not be allowed to take time away from their work with pay to perform duties as a steward or alternate.

All other employees shall not engage in Union business during the hours they are being paid to work without prior approval of the Public Safety Director or his designee.

Section 7 - Payroll Deduction: Employees covered by this Agreement may authorize payroll deductions for the purposes of paying Union dues. Requests for same must be on a prescribed form approved by the City Manager. No authorization shall be allowed for payment of initiation fees, special assessments, fines, penalties or delinquent dues.

Section 8 - Union Dues: The Firefighters will notify the City Human Resources Specialist as to the amount of dues. This notice must state the weekly amount in dollars and cents for each individual member. Such notification will be certified to the City Human Resources Specialist in writing over the signature of an authorized officer of the Firefighters at least thirty (30) calendar days in advance of the effective date. Changes in membership dues will be similarly certified to the City Human Resources Specialist and shall be done at least thirty (30) calendar days in advance of the effective date of such change.

Section 9 - Hold Harmless: The Firefighters will indemnify, defend and hold the City harmless against any and all claims, demands, or suits or other forms of liability that shall arise out of, or by reason of, action taken or not taken by the City because of payroll deductions of Firefighters dues. The Firefighters agree that in case of overpayment, proper adjustment, if any, will be made by the Firefighters to the affected employee.

Section 10 - Withdrawal: The payroll deduction shall be revocable by the employee by providing thirty (30) days written notice to both the Firefighters and the City Human Resources Specialist.

## **ARTICLE 6 -- PERSONNEL FILES**

Section 1 - Official File: There shall be only one official personnel file maintained on each employee.

Section 2 - Confidentiality: The personnel record of the employee shall be kept confidential, except those items, which are available to the public under Florida Statutes, Chapter 119.

Section 3 - Inspection and Copying: Upon reasonable request, any employee shall have the right to inspect his official personnel record wherever kept. The employee shall have the right to have duplicate copies made for his use at his expense during normal business hours.

Section 4 - Employee Comment: Employees shall have the right to add to their personnel records written refutation of their annual job performance evaluation within five (5) working days of receipt of the evaluation.

Section 5 - Removal: Written reprimands, suspensions and employee evaluations shall be a permanent portion of the employee's personnel file; provided, however, that where a two (2) year period lapses following a written reprimand during which time the employee does not receive a subsequent reprimand of any kind or any other greater form of discipline, less than discharge the letter of reprimand shall be removed from his file unless the written reprimand involved unsafe work performance, misconduct as a firefighter, or alcohol or drug abuse. However, when the City is considering discharge of an employee, such action is not progressive but rather is punitive in nature. In such a circumstance, it is therefore appropriate to consider an employee's entire work history in reaching a decision.

## **ARTICLE 7 -- VEHICLES, EQUIPMENT AND SAFETY**

Section 1 - City/Private Vehicle: Employees shall use City vehicles unless approval to use another vehicle, including their own, is first obtained from the Public Safety Director or his designee. Whenever an employee is required to use his own vehicle in the performance of his official duties, he will be compensated at the rate provided for in Florida Statutes, Section 112.061(7) (d) (1), and be reimbursed for tolls and parking charges.

Section 2 - Abuse: Any employee who negligently operates or uses or abuses vehicles or equipment used by or assigned to him or who fails to utilize vehicles and equipment as prescribed shall be subject to disciplinary action up to and including discharge.

Section 3 - Use of Vehicles and Equipment: Management shall determine what vehicles and equipment will be utilized, by whom and for what functions.

Section 4 - Loss of Driver's License: Bargaining unit members who drive/operate City equipment as part of their job duties will be required to hold a current valid Florida Driver's License; Failure to maintain a current valid Florida Driver's License shall cause the employee to lose his/her job due to his/her inability to legally operate/drive motorized City Equipment. The City Manager may opt to reassign an employee to another job rather than terminate the said employee.

Section 5 - Unsafe Vehicles: No employee shall be required to operate an unsafe vehicle. The employee shall report the unsafe condition to the ranking officer in charge on duty, the Public Safety Director or his/her designee, who shall investigate the reported condition and make a determination as to whether the vehicle is safe for operation. The employee shall abide by the decision.

## **ARTICLE 8 -- UNIFORMS AND EQUIPMENT**

Section 1 - Uniforms: New full-time firefighters shall be issued five (5) uniforms, badge, brass and name tags (hereafter "uniform").

Section 2 - Sleeping Facilities: The City will furnish all beds, mattresses, sheets, pillows, and a locker for each employee.

Section 3 - Replacement: The City shall replace or repair parts of the uniform, which become unserviceable because of (1) normal wear and tear, or (2) damage, if through no fault of the employee while in the line of duty.

Section 4 - Protective Clothing: The City shall continue to furnish and maintain at no cost to the employee all respiratory apparatus, fire boots, gloves, helmets, hoods, fire coats and pants, and any other safety or health equipment required by the NFPA

Section 5 - Return: All uniforms, equipment and other City-issued equipment are the property of the City and shall be returned to the City in good condition upon cessation of employment.

Section 6 - Uniform Allowances: On Anniversary Date, each full-time employee will be entitled to a maximum \$360.00 annual uniform allowance for exclusive use to replace and restore uniforms. Of the \$360.00 annual uniform allowance, \$125.00 shall be allowed toward purchase of footwear approved by the Public Safety Director or his designee.

Section 7 - Uniform Requisition: Firefighters requiring authorized replacement uniform items will submit standard purchase requisitions to the Public Safety Director for approval; the total of which will not exceed the maximum \$360.00 in a fiscal year. Disapproval of such requisitions by the Public Safety Director may be reviewed by the City Manager upon request by the firefighter.

## **ARTICLE 9 -- TYPES OF APPOINTMENTS, TRANSFERS AND DEMOTIONS**

Section 1 - Types of Appointment: When a person is initially employed by Avon Park, he/she shall be given one of the following types of original appointments:

A. Probationary: The initial one year employment period in which an employee is observed for effective job performance. The Public Safety Director, with the concurrence of the City Manager, may elevate a probationary employee to a permanent status after ninety (90) days, if the employee has demonstrated above average job knowledge and performance. In the event an employee takes a leave of absence during the probationary period, the probationary period will be automatically extended by a like amount.

B. Provisional: A short-term appointment of no longer than six (6) months duration made only in the absence of a qualified applicant. Permanent status may not be attained while serving in this capacity.

C. Temporary: Temporary appointments may be made to fill positions which are authorized and established for a specified period of time when the work of an agency requires the services of one or more employees on a seasonal or intermittent basis, or in cases of emergency.

D. Permanent: An employee serving a probationary appointment shall be given a permanent appointment upon satisfactory completion of the probationary one-year period.

Section 2 - Temporary Non-training Work Out of Classification: Any employee required to carry out duties or responsibilities in a classification with an entry level above that which he normally holds, shall be paid an additional one (\$1.00) dollar per hour for the higher position for all time spent in the position beginning immediately. The difference shall be reflected on the pay stub separate from the

regular hours.

Section 3 - Request for Transfer: An employee may request transfer from one work area or department to another if properly qualified. The Public Safety Director and the City Manager must approve transfers.

Section 4 - Mandatory Educational Training Pay:

1. To assist employees in advancing themselves and at the same time improve the quality of City service, the City may select courses and/or programs which employees will attend. The City shall pay expenses for any courses and/or programs selected by the City. In addition, employees so selected shall be paid their regular salary while attending said courses and/or programs.

2. All firefighters will receive the \$25.00 per month for Education Pay.

3. Educational assistance the expense of tuition / registration, travel expenses, mileage, meals and lodging for one (1) additional class not on list per year will be paid by the City of Avon Park. Class must be approved by the Public Safety Director.

Section 5 - Training: The City may assign personnel at their regular rate of pay for training purposes to a higher classification for a period of time as determined by the job classification. If the City does assign an employee to the same higher classification more than once during the same twelve (12) month period, then the higher pay for the classification shall be paid in accordance with the provisions of Section 2. The intent of this section is not to prohibit or restrict the City from exercising its right to train employees for a higher classification nor is this section to be utilized to avoid the obligations set forth in Section 2 above.

Section 6 - Vacancies/Promotions:

1. It shall be the policy of the City to promote from within the Fire Department up to and including the position of Fire Captain. This policy also includes the staff positions of Code Enforcement, Inspector and Fire Marshal. In the event that there are no qualified personnel within the Fire Department to fill the position, the City shall have the right to fill the position with a qualified person from outside the Fire Department work force.

2. The promotion requirements are as follows: To promote to position of Lieutenant you must

have the following classes completed prior to filling position (State Certified Pump Operator, State Certified EMT, Aerial Class, Company Officer Class, Tactics One (1) Class, Building Construction Class, Basic and Intermediate Incident Management Classes).

3. To promote to position of Captain you must have the following classes completed prior to filling position (ALL of the Lieutenant requirements in addition to State Certified Fire Officer One (1)).

4. An objective impartial written test shall be given to all employees seeking advancement. A ninety (90) day notice shall be given prior to the testing and shall be posted in the station. A list of specific manuals from which the test questions are taken will be made available as part of the test notice. One set of these manuals will be provided at the fire station.

5. Based on the criteria set forth in the following sections, candidates for a position shall be ranked in numerical order. The City Manager shall fill the position, with the recommendation from the Public Safety Director, by choosing one of the top three candidates, or if ten or more individuals are tested, from among the top five. The scores and standings of all candidates shall be maintained for one year from the date of the test. The employer shall establish a separate list for each position and fill any vacancies from appropriate list each time selecting from the top three or five candidates as is appropriate.

6. The following criteria will be used to rank all candidates for Captain/Lieutenant promotional exams:

A. Written examination -- Consisting of 60 questions, each valued at 1 point.

B. Assessment Panel (40 points): The panel assessment will consist of 10 questions valued at a maximum of 4 points per question. Made up of at least three (3) outside Fire Department Personnel and the City Manager.

7. An assessment panel shall consist of four (4) members. All questions shall be in keeping with knowledge and requirement for the rank considered.

8. Seniority shall be the tiebreaker within the department.

Section 7 - Promotional Probation: When an employee is promoted, he shall be on probation for a

period of six (6) months. If the Public Safety Director determines the employee shall not become permanent in the position, he shall be allowed to return to his former or an equivalent position without loss of classification seniority, provided his performance during the period was otherwise satisfactory.

**Table 9-1 Promotion Procedures**

<u>Lieutenant</u>	<u>Fire Captain/Shift Supervisor</u>
3 Yrs. as a Firefighter	1 Yr. as a Lieutenant
Review Panel With City Manager, Public Safety Director, and Outside Union Representative  Oral Interview  Discipline action after 2 yrs. will not be used against applicant  2 Written/1 Oral  * 2 points written and 1 point for oral be deducted from score If is less than 2 years.	Same  City Manager + 3 Outside Fire Department Personnel
Points for Position –  Firefighter 0 point, Firefighter/EMT 2 points, Lieutenant 3 points, Lieutenant/EMT 5 points, Captain 5 points, and Captain/EMT 7 points	SAME
Point For Seniority -  1 per year for the first 10 years  2 per year up to 20 years.	SAME
Points for Education -  1 point for each 40 hours of training, fire or medical related.  Not in-house.	Same but add 1 point for AA, 3 points for AS in Fire Science, 5 points for a BS degree from an accredited college or university.
2 points for each technical certificate.	SAME
Seniority for final tie breaker	SAME

## **ARTICLE 10 -- HOLIDAYS**

Section 1 - Holidays Recognized: The following shall be considered paid holidays for regular full, part-time and probationary employees:

1. New Year's Day
2. Martin Luther King's Birthday
3. Good Friday
4. Memorial Day
5. Independence Day
6. Labor Day
7. Veterans' Day
8. Thanksgiving Day
9. Day after Thanksgiving
10. Christmas Eve (Last regular workday before Christmas Day)
11. Christmas Day
12. Employee's Birthday – Forty-hour employees may observe 30 days before or after his actual birthday. 7 (k) employees shall observe the actual day of his birthday.
13. Floating Holiday

1. All permanent employees shall be granted one (1) personal leave day per calendar year by the Public Safety Director, if requested, for personal reasons, which shall be charged to sick leave. Personal leave shall not be taken in conjunction with holidays or vacations.

Section 2 - Eligibility: To be eligible for holiday pay, the employee must work his scheduled day or shift before and after the holiday and the actual day or shift on the holiday, unless the absence is due to an approved compensable leave or the employee is on an approved vacation.

Section 3 - Holiday Pay:

1. For 40-hour Employees: Pay for a holiday shall be eight (8) times the employee's straight-time hourly rate except that for part-time employees it will be four (4) times his straight-time hourly rate.
2. For 7 (K) employees – Pay for a holiday shall be nine point six (9.6) hours at one and one-half times the employee's straight hourly rate above forty-eight (48) hours for holiday worked and one times the employee's straight hourly rate of nine point six (9.6) hours if holiday is not worked.
3. Rather than receive holiday pay, employees may elect to receive comp time in an amount equivalent to the holiday pay to which they would otherwise be entitled, subject to the maximum comp time accrual set forth in Article 19, Section 3.

Section 4 - Payment for Work on Holidays:

1. All Section 7(k) employees who are eligible for holiday pay will be paid holiday pay whether they work or not. Employees who work on the holiday will also be paid their regular rate for the day plus holiday pay.
2. A forty (40) hour employee required to work on a recognized holiday who would otherwise be eligible for holiday pay will receive two and one-half (2-1/2) times his normal hourly rate of pay for all hours actually worked in lieu of holiday pay, or one and one-half (1-1/2) times his normal hourly rate and another day off with holiday pay at the City's option. Employees required to work a holiday, who are not eligible for holiday pay, shall receive one and one-half (1-1/2) times their regular rate for all hours actually worked.

Section 5 - Normal Days Off: When a holiday is celebrated by the City on a forty (40) hour employee's normal day off, the employee who meets eligibility requirements will receive holiday pay as provided in Section 3.

Section 6 - Day Observed: The City shall announce at least thirty (30) days in advance if the holiday is going to be celebrated other than on the nationally recognized day for forty-hour (40) employees. 7 (K) employees shall observe the nationally recognized day.

**ARTICLE 11 -- SICK LEAVE**

Section 1 - Entitlement:

1. For Section 7(K) Employees: Permanent employees on a Section 7(k) schedule who have satisfactorily completed six months of their probationary period shall earn nine point six (9.6) hours of sick leave for each month of continuous service, commencing with the first month following the first six months of the probationary period. Sick leave shall be charged at twenty-four (24) hours per day or shift.

2. For 40-hour Employees: Regular full-time employees not on a Section 7(k) schedule who have satisfactorily completed six (6) months of continuous service shall earn eight (8) hours of sick leave for each month of continuous service, commencing with the first month following the six (6) months with no maximum.

Section 2 - Accumulation and Use: Paid sick leave may be accumulated up to a maximum of 2920 hours and may be used for:

1. Absence of an hour or more due to non-job-related bona fide sickness or injury of the employee, or the employee's spouse, child or dependent as defined by the FMLA, when it is necessary for an employee to be absent to care for them.

2. For medical, dental or eye examination for which arrangements cannot be made during his off-duty hours.

Section 3 - Payout: Accumulated but unused sick leave is not earned until actually taken and therefore, shall not be paid upon separation from employment, except in the case of retirement or death the City will pay to the employee or his estate, in the event of death, one half (1/2) of the accumulated but unused sick leave standing in his account up to a maximum of four hundred eighty (480) hours.

Section 4 - Sick Pay: Sick pay will be paid on whole hours or days at the employee's straight-time rate at the time the paid sick leave is taken.

Section 5 - Job-Related Injuries: Paid sick leave will not be paid to an employee who is on workers compensation or is otherwise compensated because of an on-the-job or job-related sickness or injury.

Section 6 - Verification Required: A medical certificate signed by a licensed physician may be required by the Public Safety Director to substantiate sick leave or a request for sick leave for the following reasons:

1. An absence under Section 2 above;
2. To support a request for sick leave during a period of time when the employee is on vacation leave; however, the employee must notify the Public Safety Director or his/her designee of his illness while on vacation in order to have those vacation days on which he is ill changed to sick days;
3. To support a request for sick leave on the first day of return following vacation leave;
4. Leave of any duration if absence from duty recurs frequently or habitually, provided the employee has been notified or warned in writing that a certificate will be required;
5. Whenever, in the judgment of the Public Safety Director sick leave may appear to be abused, or where a regular full-time employee regularly uses his sick leave as it is accrued, the employee requesting such sick leave may be required to furnish competent medical proof for such absence prior to sick leave pay being granted.
6. To return from an extended sick leave under Section 10, such competent medical proof shall include a physician's statement attesting to the employee's inability to perform work on the day(s) of absence. Any employee on paid sick leave shall continue to accrue all benefits as if on actual duty.

Section 7 - Notice: Employees who are absent from work for sickness or injury shall notify their immediate supervisor of such absence as promptly as possible, but in any event no later than thirty (30) minutes prior to the commencement of his scheduled shift.

Section 8 - Restriction: The regular full-time employee off duty due to his illness or injury shall remain at his residence, except that the employee may depart his residence to receive medical treatment, to secure drugs from a pharmacy or for other reason deemed appropriate by the Public Safety Director.

Section 9 - Employee Cooperation: Failure on the part of the employee to timely, as per Section 7, notify the department of any absence for which sick leave is claimed, departure from his home without authorization and/or notification on any day for which sick leave is claimed, and/or the failure to provide medical documentation in a form and manner acceptable to the department head shall result in the denial of sick leave or other disciplinary action as determined by the Public Safety Director.

Section 10 - FMLA: Employees will be granted sick leave for their own serious health conditions as provided under FMLA.

Section 11 – Sick Leave Bank: A Sick Leave Bank may be established for use by firefighters who do not have enough sick leave days to cover absences for illnesses. Each firefighter may donate a maximum of 9.6 hours per year to the sick bank. Once donated the hours become the property of the sick leave bank and may not be recouped by the donor. Firefighters who do not donate hours to the sick leave bank may not use hours from the sick leave bank.

Section 12 – Additional Leave Beyond FMLA Period: Employees unable to work and who are on a leave of absence due to sickness, an FMLA reason, or because of a workers' compensation injury or illness, shall have their position held for them for a minimum of 15 weeks. Subject to compliance with applicable law, additional leave beyond 15 weeks may be granted in the exclusive discretion of the City Manager.

## **ARTICLE 12 -- BEREAVEMENT LEAVE**

Section 1 - Benefit: When a death occurs in the immediate family, a regular full-time employee shall be granted time off as follows:

1. For 40-Hour Employees: Up to three (3) days off without loss of pay or benefits. Up to an additional two (2) days of bereavement leave shall be granted to employees who have to attend a funeral out of state.
2. For Section 7(k) Employees: Up to two (2) shifts without loss of pay or benefits.

Section 2 - No Charge: Bereavement leave will not be charged against sick leave, vacation or holiday pay or accumulated overtime. The City may require verification of the need for such leave before payment is approved.

Section 3 - Immediate Family: "Immediate family" as cited above shall be defined as: father, mother, spouse, children, father or mother-in-law, brother, sister, grandparents, grandchildren, brother or sister-in-law, son or daughter-in-law, stepmother or father, stepchildren, stepfather or mother-in-law, stepbrother or step grandparents, step grandchildren, stepbrother or sister-in-law, stepson or daughter-in-law.

Section 4 - Others: Whenever operationally feasible, a regular full-time employee may be given time off without pay to attend local funerals of relatives or close friends.

Section 5 - Additional Days: At the option of the City, employees may be given an additional three (3) days off without pay in the event of the death of a spouse, parent or child.

### **ARTICLE 13 -- LEAVE OF ABSENCE - CIVIL**

Section 1 - General Leave: Leave of absence without pay for a period of up to but not exceeding six (6) months may be granted to a regular full-time employee at the discretion of the City Manager.

Section 2 - Insurance Premiums and Coverage: Any regular full-time employee on an approved non-paid leave of absence will have their life and health insurance premiums paid by the City for up to thirty (30) days maximum. For employees on qualifying FMLA leave, insurance will be maintained as provided by law.

Section 3 - Other Benefits: While on general leave, the employee shall receive no other wage or benefit (such as holidays). Nor shall the employee continue to accrue benefits during a general leave in excess of thirty (30) days; provided, however, he will continue to accumulate City seniority for the purpose of calculating years of continuous service.

Section 4 - Return from General Leave: Provided he is physically and mentally qualified to perform with or without reasonable accommodation, a regular full-time employee shall return from leave without pay to the same step of his previous salary grade and in the same or equivalent class in which he was employed when leave began; provided, in the case of leaves beyond thirty (30) days (12 weeks for FMLA qualifying leave), the employee may be permanently replaced if the business needs of the City require, in which event the employee shall be placed in another vacancy for which he is qualified or in the event no such vacancy exists, laid off with the right of first consideration for twelve (12) months for any vacancy for which he is qualified.

Section 5 - Early Return: A regular full-time employee granted leave of absence who wishes to return before the leave period has expired shall be required to give his department head at least a one-week written notice of such intent. Upon receipt of such notice, the employee may be permitted to return to work.

Section 6 - Jury Duty: Regular full-time employees who are summoned during their regularly

scheduled workday to jury duty by a court of competent jurisdiction will be granted time off for jury duty. Any employee who is released from duty shall report to work as soon after release from jury duty. The City will make up the difference between pay received for jury duty and the employee's regular straight time pay for his normal schedule.

Section 7 - Court Attendance: Regular full-time employees shall be granted leave with pay for appearance before a court, legislative committee or other body as a witness in a proceeding involving the federal government, State of Florida, or a political subdivision thereof in response to a subpoena or he is directed to appear by the City. The employee shall give the Public Safety Director notice his attendance is required as soon as he is aware of it.

Section 8 - Military Leave: Regular full-time employees who are members of the U.S. Armed Forces, Reserves or the National Guard will be granted paid leave up to 240 hours, including travel time, for the purpose of attending training as required by the Reserves or the National Guard. A copy of the employee's Reserve Orders shall be provided to the City Manager at the time of such request. Military leave for training ordered in addition to 240 hours per year shall be granted without pay. Members of the Reserves or the National Guard who are ordered to active military service, will receive paid leave for the first 30 calendar days of such active military service. Leave for active military service beyond 30 days shall be unpaid.

## **ARTICLE 14 -- VACATIONS**

Section 1 - Vacation Time: Vacations shall be granted to regular full-time employees in the following manner:

### 1. Section 7(k) Employees:

After one (1) year, but less than ten (10) years of continuous service - ten (10) hours per month for employees hired before October 1, 1989, but eight (8) hours per month for employees hired after October 1, 1989. More than ten (10), but less than fifteen (15) years of continuous service - fourteen (14) hours per month for employees hired before October 1, 1989, but twelve (12) hours per month for employees hired after October 1, 1989.

More than fifteen (15) years of continuous service - eighteen (18) hours per month for employees hired before October 1, 1989, but sixteen (16) hours per month for employees hired after October 1,

1989.

## 2. 40-Hour Employees:

After one (1) year, but less than ten (10) years of continuous service, ten (10) working days for employees hired October 1, 1989 or later, but twelve (12) working days for employees hired before October 1, 1989.

More than ten (10), but less than fifteen (15) years of continuous service - fifteen (15) working days.

More than fifteen (15), but less than twenty (20) years of continuous service - twenty (20) working days.

Section 2 - Holidays/Days Off: In computing vacation time, holidays or regular days off immediately preceding the commencement of, falling within or following the termination of a regular full-time employee's vacation, holiday or regular days off shall not reduce the employee's vacation time.

Section 3 - Termination of Employment: If a regular full-time employee voluntarily resigns or is terminated during the course of his employment or in the event of death, he or his heirs shall be entitled to an immediate lump sum payment for all vacation time earned but not taken at the employee's last rate of pay, up to a maximum of 480 hours.

Section 4 - Advance Payment: A regular full-time employee may request his vacation paycheck by submitting the request in writing to the City's payroll office at least one week prior to the start of his vacation period. The Public Safety Director and City Manager must sign said request prior to its submission to the payroll office.

Section 5 - Scheduling: Vacations must be requested not less than two (2) weeks in advance. Requests may be considered with less notice if there are circumstances which arise that were unforeseen by the employee. All requests are to be submitted to the Public Safety Director, in writing, for approval. Vacation requests will be approved or disapproved, in writing, by the Fire Public Safety Director within three (3) days of submittal. For the purpose of this section, a day is defined as a City Hall business day. Approval of a vacation does not abrogate management's right to cancel vacations in times of emergencies as defined in Article 4. Conflicting requests will be decided on the basis of City seniority; provided, however, if the Public Safety Director has already approved a junior employee's vacation, it would take precedence over the senior employee's request.

Section 6 - Unused Vacation Time: Employees may accrue up to a maximum twice the employee's annual accrual, after which no leave shall be carried forward from year to year.

Section 7 - Periods of Leave of Absence: Vacation time will not be earned during periods when employees are on leave of absence for more than thirty (30) calendar days regardless of the reason for the leave.

## **ARTICLE 15 -- INSURANCE BENEFITS**

Section 1 - Coverage/Contribution: The City will continue to pay full cost of individual health insurance coverage. The parties agree that the City shall have the right to change plans or alter coverage levels in order to reduce costs. However, prior to any change, the City agrees to notify the Firefighters and solicit input on any contemplated changes.

Section 2 - Group Life: The City shall provide Ten Thousand Dollars (\$10,000.00) of group life insurance for each member of the bargaining unit. Each member of the bargaining unit who wishes may take out a policy for a larger amount subject to the approval of the insurance company; provided, the employee shall pay for the extra coverage.

## **ARTICLE 16 -- WORKERS COMPENSATION/REINSTATEMENT**

Any employee who is able to work after a job-related injury shall be reinstated to his former job or a substantially equivalent job, for which he is qualified, provided he is physically qualified to perform all of the duties and responsibilities of such position. Certification by a medical doctor that he is able to return shall be required prior to the employee returning to work. If he is unable to assume his former responsibilities, the employee shall have first preference to fill another City position. Re-employment or reinstatement rights under this Section shall continue for twenty-four (24) months after the injury. Thereafter, if the employee is rehired, it will be as a new employee.

## **ARTICLE 17 -- POLITICAL ACTIVITY**

Except when on duty or acting in his official capacity, no employee shall be prohibited from engaging in any political activity.

## **ARTICLE 18 -- SENIORITY AND LAYOFF**

Section 1 - Definition: City seniority shall be defined as the total length of continuous service with

the City of Avon Park. Classification seniority is defined as length of continuous service in the job classification in the Department. Seniority shall continue to accrue during all types of compensable leave approved by the City. Approved leaves of absence without pay shall not count toward the accrual of classification seniority.

Section 2 - Loss of Seniority: Employees shall lose their seniority as a result of the following:

1. Termination.
2. Retirement.
3. Voluntary resignation.
4. Layoff exceeding six (6) months.
5. Unexcused absence for more than three (3) consecutive days.
6. Failure to report to the City Manager intention of returning to work, within five (5) days of receipt of recall as verified by certified mail, return receipt.
7. Failure to report from military leave within the time limits prescribed by law.

Section 3 - Layoff Selection: In the event the City decides to lay off employees within the Department, the City will first lay off employees who have not yet completed their initial twelve-month probationary period. If further layoffs are necessary, selection among employees shall be based on:

- A. Ability to perform all the work available.
- B. Special skills essential to the performance of the available work.
- C. Job performance as reflected by the job evaluations for the past three (3) years or the most recent evaluations available.
- D. Job classification seniority.

Where, in the opinion of management, factors A, B, and C are relatively equal among employees, factor D shall be determinative.

Section 4 - Bumping: A senior employee who is laid off in one classification may bump the junior employee in a lower classification if he is qualified to hold that position, which determination shall be made by management and shall not be grievable. The City agrees to notify the Firefighters prior to laying off the senior employee attempting to bump to consider any objections raised.

If the position from which the most senior person was laid off reopens during six (6) months from the date of layoff, that laid off employee shall have the right to fill that position. Probationary employees shall not have recall rights.

Section 5 - Equal Seniority: In the event that two (2) or more employees affected have the same exact amount of seniority, the City Manager shall consult with the Firefighter's prior to making the decision of who shall be retained.

Section 6 - Recall:

1. Regular full-time employees on layoff status will retain rights for six (6) months.

Recall will be made by certified mail to the last known address in the employee's personnel record. Employees are required to advise the City of any change of address.

2. Within five (5) work days of mailing of a recall notice by certified mail, laid off employees must signify, in writing to the City Manager's office, their intention of returning to work. Failure to respond to this notice within the prescribed time limits shall constitute a voluntary resignation by the employee.

3. Recall will be offered to laid off employees other than those employees who were on probationary status at the time of layoff, provided they are physically qualified and able to perform all of the duties of the job, before new employees are hired. The City reserves the right to require the laid off employee to submit a doctor's statement indicating that the employee is in fact physically qualified and able to perform all the duties of the job.

4. Recall will be in inverse order of layoff as jobs become vacant in the Department.

## **ARTICLE 19 -- HOURS OF WORK AND OVERTIME**

Section 1 - Basic Work Week or Work Period:

1. 40-Hour Employees: The basic work week shall consist of forty (40) hours within a seven (7) day period beginning on Wednesday and ending on Tuesday.

2. Section (K) Employees: The work period for bargaining unit employees on a Section 7(k) schedule is twenty-one (21) days.

Section 2 - Kelly Day: One day off without pay in every twenty-one (21) day work period will be given to each employee, subject to operational needs, in order to assist in attempting to keep down overtime.

Section 3 - Pay/Comp Time:

1. For Section 7(k) Employees: All hours worked in excess of one hundred forty-four (144) hours in the twenty-one (21) day work cycle shall be considered overtime for which the employee shall be paid at one and one-half (1-1/2) his straight-time hourly rate or if employee chooses, placed in the employee's comp time bank at one and one-half (1-1/2) times the overtime hours worked.

2. For 40-Hour Employees: All hours worked in excess of forty (40) hours in a seven (7) day period shall be considered overtime for which the employee shall be paid at one and one-half (1-1/2) of his straight-time hourly rate or if employee chooses placed in the employee's comp time bank at one and one-half (1-1/2) the overtime hours worked.

3. Banking: The City shall determine how much overtime will be allowed to be banked as comp time subject to a maximum of ninety-six (96) hours. Overtime worked in excess of the maximums allowed shall be paid at time and one-half. When the employee elects to take comp time in lieu of overtime pay, he shall be given one (1) hour for each hour of time in his comp time bank.

Section 4 - Use: Comp time shall be taken as allowed by the Public Safety Director. In addition, comp time shall be utilized for approved unpaid leaves of absence at the option of the employee.

Section 5 - Payoff: In the event of termination of employment, regardless of the reason, the employee's comp time bank shall be settled as provided under the FLSA.

Section 6 - Schedule: Except in extenuating circumstances, the City will notify the employee within forty-eight (48) hours of any change in the employee's regular scheduled work time; provided further, an employee's schedule will not be altered on a day-to-day basis for the sole purpose of

avoiding the payment of overtime.

Section 7 - Call-Out/Standby Pay: Employees who are called out to perform work shall receive a minimum of two (2) hours pay or actual hours worked. Firefighters will be placed on standby status only in extreme emergencies as determined by the Fire Public Safety Director. Standby pay shall be \$45.00 per day. When placed on standby, firefighters are on call and will remain in the general vicinity of the City of Avon Park. Alcohol will not be consumed by firefighters that are on standby status. Failure to respond when activated from standby status will result in disciplinary action.

## **ARTICLE 20 -- WAGES AND LONGEVITY**

Section 1 - Wage Scale - : Employees shall be paid in accordance with the rates set forth in the pay scales attached hereto as Appendix 1 (Employees in Current Job Classification as of November 1, 2013) and Appendix 2 (New Hires and Employees Promoted to Job Classification Subsequent to November 1, 2013).

Section 2 - Change in Pay on Promotion, Permanent Transfer or Demotion: When an employee is promoted or permanently transferred or demoted, he shall be paid at the next highest rate for the job to the rate he was making in the job he formerly held without regard to his pay longevity. In the case of disciplinary demotion, the employee will be paid the rate for the new job consistent with his pay longevity. In either event, the employee's City seniority for the purpose of calculating the right to other benefits shall not be affected.

Section 4 - The Education Incentive will be as follows: A one (1) time lump sum payment of one percent (1%) of the firefighter's base salary will be paid for each of the five (5) steps. No more than one payment per year may be earned. Firefighter's that have completed the steps prior to the execution of the Collective Bargaining Agreement will be paid retroactively for those steps completed. The (5) steps are as follow.

Step 1: State Certified EMT, State Certified pump Operator, and Aerial Class.

Step 2: All of step 1 in addition to State Certified Fire Officer 1.

Step 3: All of step 1 and 2 in addition to State Certified Inspector.

Step 4: All of the above in addition to State Certified Instructor.

Step 5: All of step 1,2, 3 and 4 in addition to State Certified Fire Officer 2.

## **ARTICLE 21 -- PREVAILING RIGHTS**

Section 1 - General: There shall be no benefits implied or otherwise accruing to the benefit of the bargaining unit or members thereof, except benefits as herein expressly provided.

Section 2 - Early Leave: With approval of the ranking officer on duty, employees may leave early if they are relieved by oncoming personnel. If such action results in additional compensation to the oncoming employee, the employee relieved early shall be required to pay the relieving employee.

Section 3 - Exchange of Shifts: Employees may exchange shifts with prior approval of the Public Safety Director.

Section 4 – Damaged Personal Equipment: Any employee who, during the course of their employment shall incur any damage to their clothing or personal property, shall be reimbursed up to 100% unless it is established that the loss or notification of the loss or damage was caused by neglect of the employee. The Public Safety Director, or his designee, will investigate the incident and make the final determination as to the City being involved, or if the loss or damage is the fault of the employee.

Section 5 - Outside Employment: Employees shall not work at any other job, either part or full time, without first seeking permission from the Public Safety Director. No City vehicle or equipment shall be used in outside employment or for transportation to or from outside employment. Such permission will not be denied if the employee may legally perform the job and the nature and hours of the job will not, in the Public Safety Director's opinion, interfere with the efficient operation of the Department. The City shall not have the responsibility to make any accommodations for other jobs, and if another job held by an employee in any way interferes with the performance of an employee or the efficiency of the Department, the employee must, at the Public Safety Director's request, give up the other job or jobs. Failure to do so will result in discharge.

## **ARTICLE 22 -- SEVERABILITY CLAUSE**

Section 1 - Laws: If this agreement or any provision, section, subsection, sentence, clause, phrase or word of this Agreement is in conflict with any law as finally determined by a court of competent jurisdiction, that portion of this Agreement in conflict with said law or court interpretation of the law

shall be null and void, but the remainder of this Agreement shall remain in full force and effect with it being presumed that the intent was to enter into this Agreement without such invalid portion or portions.

Section 2 - Negotiation: Should any Article of this Agreement be rendered invalid as described above, it shall be renegotiated under Chapter 447 of the Florida Statutes provided that a request of such renegotiations be made within fourteen (14) days of a final decision on invalidity.

### **ARTICLE 23 -- NO STRIKE**

Section 1 - No Strike: The Firefighters agrees that during the term of this Agreement it shall not participate in, authorize, condone, excuse, ratify, instigate, or support in any manner any concerted failure to report for duty, concerted absence of employees from their positions, concerted stoppage of work, concerted submission of resignations, concerted abstinence in whole or in part by any group of employees from the full and faithful performance of the duties of employment with a public employer, for the purpose of inducing, influencing, condoning or coercing a change in the terms and conditions of employment or the rights, privileges, or obligations of public employment, or deliberate and concerted course of conduct which adversely affects the services of the public employer, including but not limited to the concerted failure to report for work after the expiration of a collective bargaining agreement and picketing in furtherance of a work stoppage.

Section 2 – City’s Right to Relief: Should the Union breach this Article, the Union agrees that the City may proceed to the appropriate court and, without notice, obtain an injunction against such breach, that the City may recover from the Firefighters or its successor in interest such damages as may be incurred and that the City may take any other action authorized or required by law.

Section 3 - Employee Participation: Any employee who participates in, or promotes a strike, work stoppage, slowdown or other form of interference with the operation and mission of the City administration shall be subject to discipline up to and including discharge only after a hearing with the City Manager or his/her designee has determined the employee’s involvement.

Section 4 - Union Assistance: In the event of a strike, work stoppage or interference, as defined presently in the Public Employee Relations Act, that interferes with the operation and/or accomplishment of the mission of the City administration, the president of the Union, or his/her designee, shall promptly and publicly disavow such strike or work stoppage and order the employees

to return to work and attempt to bring about prompt resumption of normal operations. An authorized Union representative shall notify the City within twenty-four (24) hours after the commencement of such strike, work stoppage or other forms of interference what measures it has taken to comply with the provision or the provisions of this Article.

Section 5 - Suspension of Agreement: Failure to abide by the terms set forth in this Article shall allow the City Council to unilaterally suspend this Agreement.

## **ARTICLE 24 -- MISCELLANEOUS**

Section 1 - Changes: The terms and conditions of this Agreement may be altered, changed, added to, deleted from, or modified only through the voluntary mutual written consent of the parties during the term of this Agreement and ratification as provided by law.

Section 2 - Priority: This Agreement shall supersede any regulations or practices of the City promulgated and adopted by the City Council or the Civil Service Board.

Section 3 – Internal Investigations and Disciplinary Actions: Interrogations of bargaining unit employees involving possible discipline shall be conducted in accordance with applicable law.

## **ARTICLE 25 -- DISCIPLINE AND DISCHARGE**

Section 1 - Probationary Employees: Probationary employees serve at the will and pleasure of the City during their initial probationary period and may be disciplined or discharged for any reason or no reason unless prohibited by law. During the initial probationary 12-month period, the employee shall not be entitled to submit disciplinary grievances under Article 26 nor may the Firefighters file disciplinary grievances under Article 26 in their behalf, except for the limited purpose of name clearing in the event of separation.

Section 2 - Types of Discipline: The City recognizes the following types of disciplinary actions:

- (a) Oral reprimand
- (b) Written reprimand
- (c) Suspension without pay

(d) Probation

(e) Demotion

(f) Combination of the above

(g) Discharge

It is recognized that the type of discipline utilized may vary in each case depending on the employees past work record, seniority, the severity of the conduct and other operational factors, and nothing shall require the City to utilize one or more forms of discipline as a condition precedent to utilization of another form of discipline. Employer agrees that disciplinary action shall be in a timely fashion and the employee shall be notified of the potential of such disciplinary action within fourteen (14) days of the employer becoming aware of the event giving rise to the discipline. Such disciplinary action shall be dropped if thirty (30) days after such notification no action has been taken except in cases of unlawful conduct.

Section 3 - Discipline Other Than Discharge: All employees may be disciplined by oral reprimand, written reprimand, suspension without pay, probation, demotion or combinations thereof for any action or failure to act which adversely affects the ability of the employee and/or fellow employees to efficiently perform their job responsibilities and/or adversely affects the efficient operation of City government or any department, division, or area of City government.

Section 4 - Discharge:

1. Initial probationary, provisional and temporary employees serve at the will of the City and may be disciplined or discharged for any reason not prohibited by law.
2. Employees who have successfully completed their initial probationary period may be disciplined or discharged for any of the following reasons or for any other just cause:
  1. Incompetence or inefficiency in the performance of duties.
  2. Possession, use, sale, attempt to sell or procure illegal controlled substances either on or off duty or alcoholic beverages while on duty, on City property or while operating or riding in or on City equipment.

3. Reporting to work under or while on duty being under the influence of illegal controlled substances or alcoholic beverages.
4. Insubordination.
5. Refusal to fully and truthfully cooperate in an investigation related to the operation of the City conducted by or at the direction of the City.
6. Interfering with the work of other employees or refusal to perform assigned work.
7. Excessive absenteeism or tardiness.
8. Political campaigning in writing, orally, or telephonically on the job or during duty hours of other employees, whether the campaigning employee is on or off duty.
9. Carelessness and/or negligence in the handling or control of City property, or the misappropriation of City property.
10. Discourteous, insulting, abusive or inflammatory language or conduct toward the public, a fellow employee or employees.
11. Absence from duty without authority, including refusal to report to duty at any time.
12. Acceptance of a gift under circumstances from which it could reasonably be inferred that the giver expected or hoped for preferred or favored treatment in an official or departmental/agency matter.
13. On or off the job conduct which adversely affects the ability of the employee to perform his/her duties and/or the duties of other employees and/or adversely affects the efficient operation of the City government or any department, division or area of City government.
14. Lying or falsification of any document or any other dishonesty connected with the employee's employment or in any way related to the operation of City government or any department, division or area of City government.
15. Unauthorized personal possession of firearms or possession of explosives while on duty or while on City property.

16. Horseplay, fighting, unsafe conduct or other misconduct while on duty or on City property.
17. Violation of a posted or otherwise known City departmental rule, procedure, order, regulations or state or City statute or ordinance which is related to the employee's employment.
18. Any fraudulent, criminal or dishonest act(s) committed acting alone or in collusion with others, including but not limited to stealing, embezzlement, extortion, assault or vandalism, whether committed on or off the job.
19. Improper racial or sexual comments, harassment or acts.
20. Violations of Florida Statute 447.505, prohibiting public employees from participating in any strike against a public employer.
21. Conviction of any crime where the conduct involved could reasonably be expected to impact the performance of the employee or the efficient operation of government, or conviction of any felony.
22. Loss of a state or federal license or certificate required or essential to the performance of the employee's job.
23. Unacceptable driving record where driving license is part of the employee's job.
24. Accumulative disciplinary action, not one of which standing alone warrants discharge.
25. Abuse of sick leave, or false claim of eligibility for such leave.
26. Threatening, intimidating, coercing or interfering with fellow employees or supervision at any time, including abusive language.
27. Reporting to work or working while unfit for duty, either medically, mentally or physically.
28. Failure to work overtime, special hours or special shifts after being scheduled according to overtime and standby duty policies.
29. Leaving his/her post at the end of the scheduled shift without being relieved by the supervisor or the relieving employee on the incoming shift, for those units operating on a 24-hour basis.
30. Refusing to submit to a drug or breathalyzer test under departmental rules and regulations.

31. Inability to perform one's duties, with or without reasonable accommodation.

Section 5 - Right to Respond: Where an employee has been disciplined by oral warning, written warning or suspension without pay and the employee disagrees with the discipline, he shall have the right to submit a written statement of position to the Public Safety Director, or his/her designee, which if submitted within ten (10) calendar days of the discipline shall be included in the employee's official and Departmental personnel files. Any disciplinary action may be subject to the grievance provisions of this Agreement. Verbal warnings are not subject to the grievance provisions of this Agreement provided they are not in writing and are not placed in personnel files.

Section 6 - Notice: Employees shall, upon request, be given copies of all disciplinary actions taken against them except for oral warnings. Any official written reprimand shall be furnished to the employee outlining the reason for the reprimand. The employee will be requested to sign the statement; however, signature does not necessarily imply agreement. If the employee refuses to sign, this refusal shall be noted and placed in the employee's personnel file. Whenever possible, the city will make every effort to reprimand an employee in a private manner so as to avoid embarrassing the employee.

Section 7 - Pre-action Conference: An employee will be notified in writing or orally of management's intention to take disciplinary action and the reasons for such action in advance and given an opportunity, upon his request, to explain his position orally or in writing to the management person making the disciplinary decision within ten (10) calendar days; however, where management is considering suspension without pay or discharge, the employee may be immediately suspended without pay. In such a case, if the disciplinary action is not taken or is taken and later reversed the employee shall receive back pay for the period suspended without pay prior to the disciplinary decision. An employee, upon request, shall be entitled to union representation at disciplinary interviews or conferences. Interrogations of bargaining unit employees involving possible discipline shall be conducted in accordance with the Firefighters' Bill of Rights. Any alleged violations of same shall be remedied only as provided by that law and not by arbitration under this Agreement.

## **ARTICLE 26 -- GRIEVANCE AND ARBITRATION**

Section 1 - Definition of Grievance: A grievance shall be defined as an alleged violation of the interpretation or application of the specific terms of this Agreement.

Section 2 - Definitions:

1. The term “employee” includes any individual within the bargaining unit covered by this Agreement.
2. The term “day/days” when used in this procedure shall mean a calendar day/days Monday through Friday, exclusive of holidays.
3. A grievant is a person affected by the alleged misapplication or misinterpretation of this Agreement. The grievant has the right to the presence of a Firefighters representative during all steps of the grievance procedure.

Section 3 - Withdrawal: A grievance may be withdrawn by the grievant at any time and at any step of this procedure.

Section 4 - Grievance Procedure: Whenever a grievance arises between the City and the employees or the Union, the matter will be handled in accordance with the following procedure:

Step 1: The aggrieved employee shall submit the grievance in writing signed by the employee and submitted to the Public Safety Director or his/her designee, within seven (7) calendar days of the occurrence giving rise to the grievance. The written grievance must include:

- (a) A statement of the grievance and the facts involved;
- (b) The remedy requested;
- (c) The Article and Section of the Agreement which grievant claims have been violated.

Step 2: Upon request of either party, the Union Business Agent and the Public Safety Director, or their designees, shall attempt to meet and/or discuss the grievance; in any event, however, the Public Safety Director or his designee shall render his decision in writing within seven (7) calendar days of submission in Step 1.

Step 3: If the grievance is not settled in Step 2, within seven (7) days of the Public Safety Director’s Step 2 decision, the Union may request in writing that the City Manager review the Public Safety Director’s decision. Such request shall state the reasons the Union contends the decision violates the Agreement. The City Manager, or his/her designee, shall review the entire grievance file and, if

he/she deems it appropriate, interview persons who have knowledge of the facts, after which he/she will render his/her decision. If the City Manager, or his/her designee, decides to interview the grievant, the Union will be given an opportunity to have a Union representative present whether or not such presence is requested by the grievant. Said decision will be issued within seven (7) days after receipt of the Request for Review.

Failure of the parties to meet and/or discuss a grievance or the City to make a decision within the time provided in Steps 1, 2, and 3 of the grievance procedure shall be deemed a denial of the grievance by the City, and the employee or the Union shall proceed with the next step as if the decision had been made on the last day allowed.

Step 4: If the issue presented in the grievance is exclusively an issue of contract interpretation and does not involve the discipline or discharge of any employee, the Union may request in writing that the City Manager's Step 3 decision be reviewed by the City Council. Such request must be submitted to the City Manager within seven (7) days of the Step 3 response. The City Council shall hear such grievance in a timely fashion, taking into account their status as elected officials. Appeal may thereafter be taken as set forth in Section 5. If the issue presented in the grievance involves the discipline, demotion, or discharge of an employee, the grievant must timely proceed directly from Step 3 to Section 5 - Arbitration, if appeal is desired.

Section 5 - Arbitration: Except as otherwise stated in this Agreement, grievances as defined in this Article shall be arbitrated in accordance with the following procedures:

A. Arbitration proceedings must be initiated by the serving by the Union of a written demand to the City Manager or his/her designee, for arbitration which shall be made within twenty (20) days of the last response to the written grievance at Step 3 for grievances involving discipline, demotion, or discharge, or at Step 4 for contract interpretation grievances.

Section 6 - Selection of Arbitrator: After the request for arbitration is served, the Union shall, within seven (7) calendar days, request the Federal Mediation and Conciliation Service to supply the parties with a panel of seven (7) arbitrators. Within seven (7) days after receipt of such panel, the parties will meet or confer by telephone or in person to select an arbitrator. The Union and the City shall have the right to alternatively strike three (3) names from the list. The name remaining shall be the arbitrator. Subject to Section 8, the arbitrator selected shall decide the dispute and such decision shall be final

and binding on the parties and the employees. The fees and expenses of the arbitrator shall be borne by the losing party. Each party shall be responsible for its own attorney's fees, any court reporting services it wishes to use, and the wages of employees, whether they be witnesses, potential witnesses, representatives, or grievants, it utilizes in any arbitration proceeding.

Section 7 - Authority of Arbitrator: The arbitrator shall in no way alter, amend or modify the terms of this Agreement, but shall in all cases consider the managerial rights and obligations of the City. [Under no circumstances shall any back pay, wages or monetary relief of any types be awarded to any employee for any period more than thirty (30) calendar days for employees on a Section 7(k) schedule and thirteen (13) calendar days for all other employees before the grievance was signed and reduced to writing in Section 4, Step 1, above; provided, however, when an employee has been suspended without pay, back pay may be awarded for no more than the periods set forth above before the suspension without pay grievance was reduced to writing in Step 1 above.

Section 8 – Decision: The decision of the arbitrator on any arbitrable issue shall be supported by substantial evidence on the record as a whole and shall be final and binding on the employee, City and the Firefighters.

Section 9 - Time Limits: The time limits set forth in Sections 4 and 5 are to be considered of the essence of the grievance and arbitration procedure, and failure of the employee or the Union to meet any time limit set forth therein shall, unless the parties by mutual agreement have extended a time limit, constitute waiver of the grievance and acceptance of the City's position.

Section 10 - Time Off/Pay: Step 1 of the grievance procedure shall be carried out during the employee's work hours at a time and place designated by the supervisor based on operational needs, and neither the employee nor the employee Union representative, if any, shall lose pay. The City shall determine when Steps 2 and 3 shall be processed, and if the Step or Steps are processed during their scheduled working hours, neither the employee Union representative, if any, nor the grievant shall lose pay. Employee witnesses, other than grievant, whom the City Manager may at his/her option, choose to interview under Step 4 shall lose no pay if interviewed during their working hours, and if interviewed after or before such hours, shall be paid for such time as if they were performing other work for the City. Otherwise, the City shall not be responsible to pay any Union employee representative, officer, agent or employee for any time spent processing grievances or arbitration matters, but will allow one such person per grievance reasonable time off without pay for said

activities upon reasonable prior notice if in management's opinion work requirements will allow such absence.

Section 11 - Burden of Proof: The person filing the grievance shall have the burden of proving his grievance by a preponderance of the evidence; however, in cases of discipline subject to the grievance procedure of this contract, the City shall have the burden of proof.

Section 12 – Precedent: In order to encourage prompt resolution of grievances, agreements and compromises of grievances made under Sections 2, 3, and 4, shall not be cited by either party as precedent in any subsequent arbitration proceeding or lawsuit without the consent of the other party.

Section 13 - Grievances by Non-Union Members: When the Union refuses to process a grievance for an employee because of the employee's non-membership in the Union, the employee shall have all the rights and assume all the burden, limitations and obligations, including financial obligations, of the Union under this Article and any other Article that may apply to his grievance.

Section 14 - Use of City Grievance Procedure: A grievance under this contract may be considered under the procedure of this Article or Section 12 of the City of Avon Park Personnel Rules and Regulations, not both, and upon initiating a grievance under one procedure, the right to proceed under the other shall automatically terminate. While a probationary employee shall have no right to challenge his or her discharge during the probationary period, he or she may proceed up to Step 3 only in order to provide a name clearing opportunity.

Section 15 - General:

1. All grievances shall be processed during times which do not interfere with or cause interruption of an employee's work responsibilities.
2. The filing of a grievance shall in no way interfere with the right of the City to proceed to carry out its management responsibilities, subject to the final resolution of the grievance. The employee shall abide by the management decision involved in any grievance prior to and during the time the grievance has been filed, and shall not discontinue his duties prior to or during the time a grievance is being processed, unless the employee has been terminated.
3. The date of disposition shall be the date on which the immediate supervisor or other management official delivers the disposition to the Firefighters or grievant, whichever is appropriate, or the date of

postmark in those instances where delivery is by certified U.S. mail.

4. The grievant, or in the case of multiple grievant, one grievant selected by the Firefighters will be allowed to attend each arbitration hearing without loss of pay. Subject to operational needs, up to one employee Firefighters representative will be allowed time off without pay. The City and the Firefighters will cooperate so as to minimize their time off the job. The witnesses shall not leave work without prior permission of the Public Safety Director or his/her designee and shall return to work immediately upon completion of his testimony.

5. Firefighters Witness Pool:

1. The City will allow bargaining unit employees to voluntarily contribute up to eight (8) hours accrued vacation pay to a Firefighters witness pool. The City, with proper signed authorization from the employee, will deduct the employee's voluntarily contributed time from his vacation account and issue a check to the Firefighters Witness Fund Account which it will then give to the President of the Local Firefighters. The City shall have no further obligation.

2. The Firefighters will indemnify, defend, and hold the City harmless against any and all claims, demands, or suits or other forms of liability that shall arise out of, or by reason of action taken or not taken by the City under this Section.

### **ARTICLE 27 – PENSION**

The Chapter 175 pension plan shall be amended to reduce the multiplier to 2% with respect to all employees hired on or after November 1, 2013. This pension plan amendment is contingent upon the City retaining State funding for the pension plan and receiving written confirmation to that effect from the State. In the event that the amendment cannot be implemented without losing State funding, the parties agree to resume negotiations as to pension.

### **ARTICLE 28 -- DURATION AND TERMINATION**

The contract will become effective upon ratification by both parties and remain in effect until September 30, 2016. It shall automatically be renewed from year to year thereafter, unless either party shall have notified the other in writing, at least ninety (90) days prior to the anniversary date that it desires to modify the agreement. Article 20, Section 1, may be opened by either party upon notice prior to July 1 of each contract year. For the 2014-2015 fiscal year, on 30 days written notice

either party may reopen one article each for negotiation. For the 2015-2016 fiscal year, on 30 days written notice either party may reopen two articles each for negotiation.

**SIGNATURES**

Warren Wulf 3/12/14  
President, Avon Park Professional  
Firefighters, Local 3132

Joe Leon 3/11/2014  
City Manager  
City of Avon Park

**RATIFICATION**

I certify that this collective bargaining agreement was ratified as follows:

By a majority of the bargaining unit  
On 1/14/14  
Warren Wulf  
President, Avon Park Professional  
Firefighters, Local 3132

By the City Council  
On 3/10/14  
Frank Schuler  
Mayor

## Appendix 1.

For employees employed in his or her job classification as of November 1, 2013, the following Pay Plan shall apply:

<b><u>Year</u></b>	<b><u>Firefighter</u></b>	<b><u>Lieutenant</u></b>	<b><u>Captain</u></b>
1	\$11.93	\$12.39	\$17.23
2	\$13.52	\$13.97	\$17.67
3	\$14.78	\$15.23	\$18.29
4	\$15.20	\$15.65	\$18.89
5	\$15.74	\$16.20	\$20.00
6	\$16.23	\$16.69	
7	\$17.08	\$18.00	

Effective as of fiscal year 2014-2015, the Year-7 Step for the Firefighter Classification shall be \$17.38.

## Appendix 2

For employees who are hired after November 1, 2013, or who are promoted after November 1, 2013, the following Pay Plan shall apply:

<b>Year</b>	<b>Firefighter</b>	<b>Lieutenant</b>	<b>Captain</b>
1	\$11.93	\$13.71	\$18.77
2	\$12.30	\$14.19	\$19.08
3	\$12.67	\$14.66	\$19.39
4	\$13.04	\$15.14	\$19.69
5	\$13.41	\$15.62	\$20.00
6	\$13.78	\$16.09	
7	\$14.15	\$16.57	
8	\$14.52	\$17.05	
9	\$14.88	\$17.52	
10	\$15.25	\$18.00	
11	\$15.62		
12	\$15.99		
13	\$16.36		
14	\$16.73		
15	\$17.38		