

Off the Record-Memorandum of Agreement

By and between the

LOCAL 1714, INTERNATIONAL ASSOCIATION OF
FIREFIGHTERS, AFL-CIO, CLC

And

The City of Marlborough, Massachusetts

WHEREAS, the City of Marlborough (the "City") and LOCAL 1714, INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, AFL-CIO, CLC (the "Union"), have bargained collectively for a new collective bargaining agreement (the "New Agreement") for the period July 1, 2021 through June 30, 2024; This offer and Agreement shall be considered ~~off-~~ **the-record and tentative** until ratified by Local 1714's membership and the City Council votes to fund this agreement. The bargaining teams shall sponsor and support such ratification.

WHEREAS, the City and the Union have reached an agreement;

NOW THEREFORE, in consideration of the mutual promises herein, the Union and the City agree that the following changes will be incorporated into the collective bargaining agreement, subject to the required ratifications:

1. **Term of New Agreement**

The new Contract shall be effective for the three (3) year period from July 1, 2021 through June 30, 2024. Applicable date changes shall be made in the cover page, and in other appropriate provisions of the Contract in order to reflect the terms of the New Agreement.

2. **Provisions of New Contract**

Except as modified by the changes provided in this Memorandum of Agreement, and/or except for such technical matters as date changes, all other provisions of the July 1, 2018 – June 30, 2021 Contract shall be carried over intact into the successor Contract.

3. **Probationary Period (Article 1)**

Amend Article 1 by inserting the language below to include reference to probationary period for newly hired non-civil service firefighters.

"The first twelve months of continuous service shall be considered to be the probationary period for any non-civil service firefighter that is hired by the City. Probationary employees may be disciplined, including discharged, or otherwise terminated at the sole discretion of the

City, such action shall not be subject to the grievance and arbitration provisions of this agreement.”

4. Clothing (Article VI)

Amend the applicable language in Article VI by inserting the italicized language below:

“All receipts for clothing allowance, *of approved Marlborough Fire Department uniforms*, must be received no later than June 1st of each year. *Uniforms and clothing so purchased must conform to minimum department specifications*. All remaining balances shall be paid by check to the employee. Applicable taxes will be withheld by the City.”

5. Funeral Leave (Article X)

Change the title of the Article to “Bereavement Leave.” Amend Section III by removing the stricken language and inserting the italicized language below:

~~“The Fire Chief shall determine the allotted time for each individual case.~~ *An employee may request additional bereavement leave, and the Fire Chief may in the Fire Chief's discretion give additional bereavement leave.”*

6. Injury Leave (Article XI)

Insert a new sentence that provides as follows:

Consistent with the provision herein, any employee that is receiving benefits under this article shall be prohibited from performing any work outside the City during such time absent approval from the Fire Chief, which approval shall not be unreasonably denied.

Employees engaging in any non-City work during any period of time while they are receiving benefits under this article shall notify the Fire Chief in advance of performing any outside work. The above provisions shall not prevent an employee from performing outside work during periods of time when they would normally not be scheduled for work, so long as the work is not inconsistent with the claimed issues and does not impede or otherwise delay the employee’s recovery and return to work.

7. Salary Schedule (Article XII)

The Parties agree to amend Section A to provide as follows:

“The base salaries of employees covered by the Agreement shall be increased as follows:

Effective July 1, 2021	2% base wage increase
Effective July 1, 2022	2% base wage increase
Effective July 1, 2023	2% base wage increase

8. Working Out of Grade (Article XIX)

Amend Article XIX by removing the stricken language and inserting the italicized language below:

“Any employee designated by the Chief to serve in a temporary capacity out of his/her permanent grade shall be compensated for all hours worked by him/her in such temporary grade at the ~~maximum~~ *minimum* pay rate of such temporary grade.”

9. Academic Credits (Article XXIII)

Amend Section II by inserting the italicized language below:

“The City shall pay annually to each member of the bargaining unit who earns credits as noted in Section 1 of this ARTICLE in accordance with the following scheduled. *The Fire Chief has the authority to grant payments under this Section to members who have a degree from an accredited institution.*”

10. Miscellaneous (Article XXX)

Delete Section G in its entirety.

11. Revocation of Civil Service (Article XXXI)

Amend Article XXXI by making the following changes:

- Rename Article “Revocation of Civil Service – Layoffs -Promotions”
- Change the headings labeled “Sections” to “Parts”—specifically the following shall "Section" indications shall be centered and changed to read: "Part 1: Effect of Revocation"; "Part 2: Layoff and Recall"; and "Part 3: Promotions." The descriptions below for changes refer to these Parts (though in the current contract they are referred to as sections)
- Delete the following introductory paragraph (first paragraph under Article XXXI, Revocation of Civil Service):

~~The parties agree as an essential element of this Agreement to sponsor and support the City Council's adoption and the Legislature's expeditious approval of a Home Rule Amendment to revoke the acceptance of M.G.L. c. 31 as it relates to the Marlborough Fire Department. The effective date of such revocation shall be the date the legislation is passed and signed by the Governor. The following terms and conditions shall come into effect upon revocation.~~

- Change **Part 1 Effect of Revocation** to read as follows:

On July 14, 2017, the Governor signed a Home Rule Petition, approved by the Massachusetts Legislature, revoking the Civil Service Statute for the subject bargaining unit. The revocation of the Civil Service statute did not and shall not affect any contractual or civil service rights which have come into existence between the City and any person employed as of the date of revocation, as a result of the original acceptance of such law pursuant to G.L. c. 4, Section 4B, clause (e).

- Amend **Part 3 Promotions** at "Section 1 Promotion Process" at the paragraphs A, B, C, new J-1, and J-2 and O, as follows:

(1) at paragraph "A" by removing the stricken language and inserting the underlined language below ~~make the applicable changes below~~:

"A. The initial component of the promotional process shall include ~~be an~~ a multiple-choice written examination designed/created administered by a professional testing agency. ~~and firm hired by the City.~~ The cost for the written examination will be borne by the city at no cost to eligible employees."

(2) at paragraph "B" by inserting the italicized language below:

"B. At least ninety (90) calendar days prior to any written promotional exam for Lieutenant, Captain, or Battalion Chief, the department will announce *the promotional opportunity* by posting a notice including:"

(3) at paragraph "C" by deleting current language and substituting the following:

"C. To be eligible for promotion to a Lieutenant, a candidate must be a permanent member of the department with a minimum of four (4) years of continuous service. To be eligible for promotion to a Captain, a candidate must be a permanent member of the department with a minimum of five (5) years of continuous service and served as a permanent lieutenant of the department for at least one (1) year. To be eligible for promotion to a Battalion Chief, a candidate must be a permanent member of the department with a minimum of seven (7) years of continuous service with at least three (3) years as a fire officer."

(4) adding new paragraph "J-1" and "J-2" [the parties at time of integration may elect to re-letter the paragraphs to eliminate need for a number-suffix] that provides as follows:

"J-1. The City and the Union agree it is in the interest of both parties to provide a fair and unbiased promotional opportunity to all candidates. The promotions process shall include an assessment center that is conducted by a third-party agency retained by the City. The union shall be notified of the agency that will be conducting the assessment center. Neither the City nor the Union will participate in the actual scoring of any candidate participating in the assessment center.

Candidates who pass the written exam must also receive an overall passing score for the assessment center portion of the promotional exam to be included on any promotional list. Scores from various stations used in the overall assessment center will be combined to determine the final assessment center score.

The following represents various stations that may be used in an assessment center process. This list shall not be considered an exhaustive list and other stations may be added based on the discretion of the Fire Chief. The Fire Chief shall consult with the union if any new additional stations are considered or used.

- Simulation Interview - Role Play
- In-Basket Scenario
- Oral Presentation Exercise
- Non-Assigned Role - Leaderless Group Discussion
- Superior - Subordinate Exercise
- Written Problem Exercise
- Emergency Simulation Exercise

Candidates can only fail the assessment center portion of the exam process, if all evaluators involved in scoring the candidate agree the candidate's overall performance was insufficient to recommend inclusion on any promotional list. If this should occur, evaluators responsible for scoring candidates shall submit written comments outlining the reasons why a candidate has failed the assessment center and should not be included on a promotional list.

An orientation will be provided on the day(s) of the assessment center. Candidates will be required to sign a statement indicating that they will keep confidential all components of the assessment center until the promotional process have been concluded."

- J-2. In the event there are fewer than two candidates who achieve a passing score on the written promotional exam for either Lieutenant, Captain or Battalion Chief, the chief shall consult with the union and may forgo an assessment center conducted by a third-party agency retained by the City as described in J-1. In lieu of using a third-party agency, the chief, or his designee, may organize, select, and conduct an in-house assessment center to evaluate a sole candidate. Neither the City/Fire Management, nor the Union will participate in the actual scoring of the candidate participating in this in-house assessment center. At least three fire officers, from communities other than Marlborough, shall serve as assessors in this assessment center process. Fire officers serving as assessors shall hold, or have held, a rank at least equal to or higher than the position(s) being tested. Scores from various stations used in the overall assessment center will be combined to determine the final assessment center score.

The following represents various stations that may be used in an assessment center process. This list shall not be considered an exhaustive list and other stations may be added based on the discretion of the Fire Chief. The Fire Chief shall consult with the union if any new additional stations are considered or used.

Simulation Interview - Role Play
In-Basket Scenario
Oral Presentation Exercise
Non-Assigned Role - Leaderless Group Discussion
Superior Subordinate Exercise
Written Problem Exercise
Emergency Simulation Exercise

Candidates can only fail the assessment center portion of the exam process, if all evaluators involved in scoring a candidate agree the candidate's overall performance was insufficient to recommend inclusion on any promotional list. If this should occur, evaluators responsible for scoring the candidates shall submit written comments outlining the reasons why the candidate has failed the assessment center and should not be included on a promotional list.

~~Any in-house review will be completed by a committee made up of three Marlborough Fire Department officers who hold a rank at least equivalent to or higher than the position sought by the candidate. The membership of this committee will be selected by the chief or his designee and shall include two (2) union members and the chief and/or his designee. The committee shall interview the candidate evaluating his/her interpersonal skills, past job performance, disciplinary history, and competency levels. The committee will also evaluate the candidate's commitment to the department's mission, vision, philosophy and goals and objectives with a special emphasis on determining whether the candidate can fulfill positional responsibilities and organizational needs. To be included on any promotional list, the committee must conclude, by majority vote, the candidate has successfully passed the in-house review.~~

(5) at paragraph "O" by removing the stricken language and inserting the italicized language below:

"O. Prior to presenting his *a* recommendation, the Fire Chief will notify the eligible candidates of which candidate ~~he~~ *the Fire Chief* intends to recommend. This notification shall include a general statement summarizing ~~his/her~~ *the Fire Chief's* recommendations."

12. Sick Leave (Article IX)

Amend Article IX by making the following changes:

- Amend the portions of Section I (A) by removing the stricken language and inserting the italicized language below:

An employee shall be entitled in each year to a leave of absence for sickness or disability, other than that which may result from injury or hazard undergone while in the performance of his regular duties, for a period of fifteen (15) days each year. Sick leave shall accumulate from year to year but shall not exceed ~~one hundred fifty (150)~~ *one hundred and five (105)* days. An employee shall receive his / her regular compensation during such period subject to the following conditions:

To continue to qualify for non-occupational sick leave in excess of ~~three (3)~~ *two (2)* days, an employee may be required to furnish the City with a medical report from a duly licensed Massachusetts Physician on forms supplied by the City setting forth the nature of the employee's incapacitation, its probable duration and stating the employee is unable to perform his regular duties and services.

- Amend Section IV by removing the stricken language and inserting the italicized language below:

~~Once After an employee has accumulated ninety (90) days of sick leave, he/she may buy back any excess shifts above ninety days (90) days on December 31 up to seven (7) days annually shall be bought back at the rate of twelve (12) hours for each sick day redeemed accumulated. Payment of "buy-back" from the previous calendar year shall be made on or before January 31 of each year.~~

NOTE ADDRESSING "EXCESS" SICK LEAVE:

Members who have accumulated more than one hundred and five (105) sick days as of December 31, 2022, shall select one of the following two (2) options listed below to address "Excess" sick days. One of these two options shall be selected and reported to fire administration within ten (10) days following ratification by Local 1714's membership and a positive vote to fund this contract by the City Council:

OPTION # 1. *Members who had an accumulation of sick leave in excess of one hundred and five (105) days on December 31, 2022, shall have any sick leave accrual exceeding one hundred and five (105) days bought back at twenty-five percent (25%) of full value (3 hours per day). The maximum number of days eligible to be bought back under this option is forty-five (45) shifts based upon the former maximum accrual of one hundred and fifty (150) days. These "Excess" shifts will be bought back on or before June 30, 2023 at the pay rate effective July 1, 2022. This provision is a one-time buyback and will sunset upon payment of any buyback of excess sick days.*

OPTION # 2. *Members who had an accumulation of sick leave in excess of one hundred and five (105) days on December 31, 2022, shall have any sick leave accrual exceeding one hundred and five (105) days “shelved” for the remainder of their employment while at Marlborough Fire Department. Shelved sick time will be recorded and members may qualify to use this “shelved” sick leave in accordance with Article IX but only when the amount of sick leave used equals or exceeds four (4) consecutive sick shifts and only if the employee furnishes the City with a medical report from a duly licensed Physician on forms supplied by the City setting forth the nature of the employee’s incapacitation, its probable duration and stating the employee is unable to perform his/her regular duties and services. No payment of any remaining “shelved” sick time shall be payable upon separation from employment with the City. This is a one-time option and if selected, cannot be converted to any payment provision in the future.*

**DECEMBER 31, 2022 SICK ACCUMULATION and JANUARY 31, 2023
PAYMENT**

A list identifying the twenty (20) affected members who shall choose one of the two options listed above will be available for review. Additionally, these twenty (20) members who were eligible and exercised their option to buyback accumulated sick leave on December 31, 2022, shall have their accumulated sick leave revisited for the purpose of buying down any additional leave not already bought back to a level of ninety (90) shifts from the one hundred and five (105) shift maximum. This provision will buy down affected members from one hundred and five (105) shifts, on December 31, 2022, (excluding any “excess” sick shifts), to ninety (90) shifts.

For example, if a member bought back ten (10) shifts (previous max) from December 31, 2022, this member shall now have another five (5) shifts (if available) bought back to reduce their starting sick shift accumulation, in calendar year 2023, to ninety (90) shifts. If a member bought back seven (7) shifts from December 31, 2022, this member shall now have another eight (8) shifts (if available) bought back to reduce their starting sick shift accumulation, in calendar year 2023, to ninety (90) shifts.

Eligibility for annual sick leave buyback for year ending December 31, 2023 shall occur for any member having any amount of sick leave in excess of ninety (90) shifts on December 31, 2023. A member starting 2023 with the maximum number of ninety (90) shifts and earning fifteen (15) shifts for 2023 (1.25 shifts per month), shall have their annual accumulation of fifteen (15) shifts bought back, less any shifts, or portions thereof, used (taken) in 2023, redeemed at twelve (12) hours per shift.

EXAMPLE:

Firefighter Green has a total of 128.25 days of accumulated sick leave on December 31, 2022. “Excess” sick shifts are determined by subtracting 90 sick days from the

ending balance on December 31, 2022, $128.25 - 90 = 38.25$). On January 1, 2023, Firefighter Green will accrue another 1.25 days of sick leave. Firefighter Green would then begin 2023 with 91.25 days on January 1, 2023. The list below reflects each month's accrual of 1.25 days and demonstrates the one-for-one payment of Firefighter Green's 2023 accumulated sick leave above 90 shifts payable on or about January 31, 2024. As shown, Firefighter Green is eligible for a maximum of thirteen (13) sick shifts to be bought back on or about January 31, 2024, if no additional sick leave is used AFTER March in 2023.

Firefighter Green's calculations of sick leave accrual:

December 31, 2022	128.25 days
"EXCESS" Sick Days	$128.25 - 90 = 38.25$ "Excess" days

December 31, 2022		90.00 days
January 1, 2023	+1.25=	91.25 days
February 1, 2023	+1.25=	92.50 days
March 1, 2023	+1.25=	93.75 days
March XX uses 1 shift	-1.0 day	92.75 days
March XX uses 1 shift	-1.0 day	91.75 days
April 1, 2023	+1.25=	93.00 days
May 1, 2023	+1.25=	94.25 days
June 1, 2023	+1.25=	95.50 days
July, 1, 2023	+1.25=	96.75 days
August 1, 2023	+1.25=	98.00 days
September 1, 2023	+1.25=	99.25 days
October 1, 2023	+1.25=	100.50 days
November 1, 2023	+1.25=	101.75 days
December 1, 2023	+1.25=	103.00 days

In this example, annual buyback of Firefighter Green's sick shifts above the 90 days on or about January 31, 2024 is thirteen (13) shifts

PAYMENT of Firefighter Green's "Excess" sick days will occur after any positive ratification vote of the union and positive vote by the city council BEFORE the end of FY2023 (June 30, 2023).

~~After an employee has accumulated one hundred ten (110) days of sick leave, he / she may buy back up to ten (10) days annually at the rate of twelve (12) hours for each day accumulated. Payment of "buy-back" shall be made on or before January 31 of each year.~~

- Amend Section V by removing the stricken language and inserting the italicized language below:

A) ~~Beginning July 1, 1995, u~~Upon separation from service, a bargaining unit employee shall be able to sell back to the City up to ninety (90) accumulated sick leave days, so long as the employee meets the following criteria:

The employee has ~~twenty-five (25)~~ *twenty-three (23)* years of service with the City of Marlborough and ~~the employee has maintained a minimum of ninety (90) accumulated sick leave days for a period of not less than five (5) years immediately prior to separation from service.~~

~~B) Catastrophic illness or Injury~~

~~(As used herein, the term "catastrophic illness or injury" shall mean a non-fire service connected illness or injury, which resulted in a medically necessary period of treatment or recuperation in excess of fourteen (14) working days under the direction of a qualified physician and during which the employee, at the determination of a qualified physician, was unable to perform his / her duties.)~~

13. Bonus Payment

Contingent upon ratification of this Agreement, the City will pay a one-time, lump sum, non-pensionable signing bonus to all current members of the Union equal to one percent (1%) of their FY2021 base pay."

This Agreement is subject to ratification by the International Association of Firefighters, AFL-CIO, Local 1714, and by the City of Marlborough's City Council as to appropriation. This Agreement shall not be implemented unless the parties have fully ratified and fully executed the Agreement.

This Agreement has been duly executed by authorized representatives of the City of Marlborough and by the International Association of Firefighters, AFL-CIO, Local 1714.

14. Fire Inspector

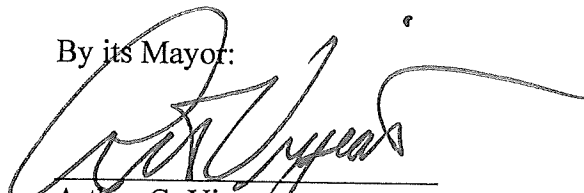
The parties agree to initiate a selection/promotion process to fill the vacant Fire Inspector position ASAP. The pay grade for this position is still being calculated but will at least match the pay grade of Fire Lieutenant (16%) higher than a firefighter.

The Fire Inspector shall work forty-two (42) hours per week on a schedule as set by the fire chief.

IN WITNESS WHEREOF, the Union and the City, by their authorized representatives, this ____ day of April 2023.


For the City of Marlborough

By its Mayor:



Arthur G. Vigeant

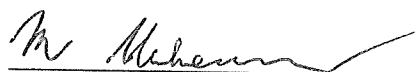
By its Fire Chief:




Kevin J. Breen

For the International Association of
Firefighters, AFL-CIO, Local 1714

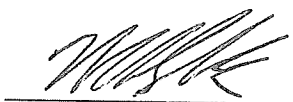
By its Executive Board:



Matthew E. Vickery, Acting President



Brian R. LaCroix, Treasurer



Michael F. Cisek, Secretary