

January 1, 2004 - December 31, 2007

Contractual Agreement

Between

The City of Niagara Falls, New York

and

The Niagara Falls Fire Department Officers Association

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Agreement

THIS AGREEMENT, made this 9th day of March, 2007 by and between the CITY OF NIAGARA FALLS, NEW YORK (hereinafter referred to as the "**CITY**") and the NIAGARA FALLS FIRE DEPARTMENT OFFICERS ASSOCIATION, (hereinafter referred to as the "**ASSOCIATION**" or "**UNION**").

W I T N E S S E T H

WHEREAS, the Association has been designated and selected by a majority of the employees in the unit, hereinafter described as their exclusive representative for the purpose of the collective negotiations and the settlement of grievances, and

WHEREAS, such Association consists of all persons employed by the City of Niagara Falls, as an OFFICER of the Niagara Falls Fire Department including Captains, Battalion Chiefs, the Chief of Fire Prevention, the Master Mechanic-Chief of Apparatus, Assistance Master Mechanic, excluding the Fire Chief and Deputy Chief.

WHEREAS, it is the desire of both parties to this Agreement to negotiate collectively with regard to terms and conditions of employment in order to avert disputes and secure harmonious cooperation within the limits of the Laws of the State of New York.

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties hereto agree as follows:

Article 1.0 - Unit

Section 1.1 - Definition

The unit shall consist of all persons employed by the City of Niagara Falls as a uniformed officer of the Niagara Falls Fire Department including Captains, the Battalion Chiefs, the Chief of Fire Prevention, Master Mechanic-Chief of Apparatus, Assistance Master Mechanic, excluding, however, the Fire Chief and Deputy Chief.

Section 1.2

The City shall not seek reclassification of the Battalion Fire Chiefs as managerial or confidential employees until at least January 1, 2020 (See Memorandum of Agreement dated August 13, 1998).

Article 2.0 - Recognition

Section 2.1 - Exclusive Representation

The Association having heretofore been designated and selected by a majority of the employees of the "City" in the unit, and described herein, as their exclusive representative for the purpose of collective negotiations and the settlement of grievances is hereby recognized as the exclusive representative for the employees of the unit as defined herein for the purpose of collective negotiations with the "City" with regard to terms and conditions of employment and in respect to the administration of grievances arising under this Agreement within the limitations of the Laws of the State of New York.

Article 3.0 - Management Rights

Section 3.1 - Enumeration of Rights

The "City" and "Association" hereby recognize and mutually agree that the management of the City, the control of its property and the maintenance of order and efficiency is solely the responsibility of the employer, the City of Niagara Falls, New York. Accordingly, except as specifically abridged, delegated, granted or modified by this Agreement or any Supplementary Agreements that may hereafter be made, all the rights, powers and authority the City had prior to the signing of this Agreement, are retained by the City and remain exclusively and without limitations within the rights of the City including, but not limited, to the following enumerated rights.

Sub-section 3.1.1

The right to operate and manage its affairs in all respects in accordance with its responsibilities and powers of authority as set forth in the City Charter, the Home Rule Act and all other applicable law or laws of the State of New York.

Sub-section 3.1.2

The right to manage the offices and departments; direct the work forces and to hire, promote, transfer, demote, lay off, suspend, discharge or discipline employees; the right to discontinue work or programs, activities and services.

Sub-section 3.1.3

The City's right to schedule overtime work as required in a manner most advantageous to the City and consistent with overtime provisions of this contract.

Sub-section 3.1.4

The right to determine schedules of work and to establish the method and processes by which work is performed provided they do not conflict with the terms of this Agreement.

Article 4.0 - Association Rights

Section 4.1 - Representation

The City agrees that the Association upon recognition shall be allowed the exclusive right to represent said employees covered by the terms of this Agreement in negotiations and in the settlement of grievances.

Section 4.2 - Dues Deduction

The City agrees that upon presentation of dues deduction cards signed by the individual employees to which this agreement is applicable, it will make bi-weekly deductions from the wages of such employees in the amounts so designated on the authorization cards as membership dues deduction and shall remit such deductions to the Association. All parties further agree that subject to the provisions of New York State Law, on Agency shop provision, requiring non-members of the Association who are in the bargaining unit to pay normal dues, shall be included in the Agreement.

Section 4.3 - Unchallenged Representation

The City agrees that the Association shall be accorded the right of unchallenged representation status until seven (7) months prior to the expiration of this Agreement, said expiration date being December 31, 2007.

Section 4.4 - Bulletin Boards

The City agrees that the Association shall have adequate space made available in a conspicuous location on the ground floor in each Fire House, the Public Safety Building, the Mechanic's Shop and the Alarm Station for Bulletin Boards, for the purpose of posting Bargaining Agent Notices to members of the Bargaining Unit. The Bulletin Boards shall be provided by the Association and shall remain at all times the property of the Association.

Section 4.5 - Negotiating Committee

The City shall grant release time without loss of pay or benefits and without the requirement to make up said loss of time to not more than five (5) members of the Bargaining Unit including the president, to serve as members of the negotiating committee. The names of the five (5) members shall be furnished to the City Administrator.

Section 4.6 - Trustees

It is understood and agreed that the Association will provide a list of Trustees to the City Administrator. The Trustees may be allowed a maximum of three (3) hours per week during their normal working hours to perform their duties as Trustees. The Trustee shall first receive written permission from their appropriate supervisor for the necessary time off to perform their bargaining unit duties. In the event that additional time is required, it may be authorized by the Fire Chief or his Deputy at his discretion.

Section 4.7 - President

The President of the Association or his designee shall be afforded reasonable time off which is required to conduct proper Association business. Such time will be reported in writing to the Fire Chief on a weekly basis.

Section 4.8 - Seniority

Seniority for all members of the Bargaining Unit shall be from the date of appointment to said rank for all purposes excluding demotion.

Section 4.9 - Vacancies

All vacancies must be posted on all Fire Department bulletin boards for at least sixteen (16) days prior to the actual filling of the vacancies. The Association shall be provided with a copy of such notice immediately upon posting on the Fire Department bulletin boards. Future vacancies within the Fire Department, with the exception of Fire Chief, shall be filled within thirty days after the vacancy occurs. Vacancies shall be filled from the Civil Service list in effect on the date each such vacancy arose; and the filling of vacancies within thirty days shall require an amendment to the collective bargaining agreement and must be ratified by the Union membership and the City Council, and such amendment shall be effective until January 1, 2000.

Sub-section 4.9.1

All applications for transfer made by a member of the Bargaining Unit to fill a vacancy shall be made in writing to the Fire Chief during this sixteen (16) day period. They will be routed through their immediate Battalion Chief prior to presentation to the Fire Chief, without delay.

Sub-section 4.9.2

The Fire Chief shall consider such transfer application upon the basis of seniority and suitability.

Sub-section 4.9.3

If a transfer request is denied by the Fire Chief, the member of the Bargaining Unit and the President of the Association will be immediately notified by the Department Head in writing of the reason for the denial.

Sub-section 4.9.4

Rank Reduction: The City agrees that there will be no reduction in rank for members of the Association, other than for cause, for the duration of this agreement. The Union agrees that the City, in its discretion, may reduce the number of employees represented by the Union as positions become vacant. The Union will also waive any requirement that vacant positions be filled within 30 days.

Section 4.10 - Personnel Records

Members of the Bargaining Unit shall be given a copy of any report, which is to become a part of the member's permanent personnel record. Such reports shall include, but not be limited to, injury reports and any report, which might be used by the City in any future disciplinary proceeding.

Section 4.11 - Conventions

The City shall grant release time without loss of pay or benefits and without the requirement to make up said loss of time to at least two (2) members of the Association to attend meetings, seminars, workshops and conventions of parent organizations, to the maximum of 8 days per member per calendar year.

Section 4.12 - Agency Shop

Pursuant to Chapters 677 and 678 of the Laws of the State of New York of 1977, and Article IV, Section 4 of the Collective Bargaining Agreement between the parties, the CITY agrees to forthwith implement agency shop fee deductions from the salaries of those employees of the CITY who are not members of the UNION, but who are represented by the UNION for purposes of collective negotiations, and to transmit such funds so deducted to the UNION in accordance

with the definition of terms and definition of procedures established in the said Chapters 677 and 678 of the Laws of 1977.

Sub-section 4.12.1

The parties agree to be bound by the provisions of said Chapters 677 and 678 of the Laws of 1977 with regard to their respective rights, duties, and obligations there under.

Sub-section 4.12.2

The UNION hereby certifies by the execution hereof that it has established and will maintain a procedure providing for the refund to any employee demanding the return of any part of an agency shop fee deduction which represents the employee's pro rata share of expenditures by the UNION in aid of activities or causes of a political or ideological nature only incidentally related to terms and conditions of employment as such procedure is required by said Chapters 677 of the Laws of 1977.

Sub-section 4.12.3

The UNION agrees to indemnify and hold harmless the CITY and its officials or employees from any cause of action, claim or loss, or damages incurred as a result of the City's deduction of any agency fee from any employee within the scope of this Agreement. The UNION agrees that it shall have no right or interest in any agency fee deduction until such collected monies are actually paid to the UNION. The CITY agrees that all agency fees so deducted will be paid and transmitted to the UNION in the same manner as, and together with, the payment of deducted union dues. The UNION agrees that upon the transmittal of payment of the Agency fee deduction the CITY and its officers and employees shall be relieved from all liabilities to deduct such fees and deliver such deductions to the UNION.

Article 5.0 - Work Rules and Procedures

Section 5.1 - Rules & Regulations

The parties hereto mutually agree to abide by the work rules and procedures heretofore adopted by the City of Niagara Falls, New York, on June 1, 1981 as amended and entitled "Rules and Regulations, Department of Public Safety, Fire Department City of Niagara Falls, New York," which rules and regulations are incorporated herein by reference as though specifically contained herein and made a part hereof.

Section 5.2 - Safety

The City and Association shall cooperate fully in matters of safety, health and sanitation affecting the employees.

Section 5.3 - Protective Equipment

The City shall furnish all members of the Bargaining Unit with such protective equipment as necessitated under current firefighting techniques, maintaining a high ideal of safety standards established in recognized and applicable safety regulations and procedures.

The employee will be held liable for negligent loss of any and all city provided personal protective equipment.

Section 5.4 - Safety Standards

The City shall maintain a level of safety standards consistent with current Firefighting techniques and standards established in recognized and applicable safety regulations and procedures.

Section 5.5 - Safety Committee

All parties agree that a joint Safety Committee with three members from each side shall be appointed promptly. Meetings shall be held at least quarterly. The Committee's decisions shall be recommendations to the City Administrator.

Sub-section 5.5.1

Unresolved issues may be submitted by the Association utilizing the arbitration provisions of the grievance procedure.

Section 5.6 - Personal Property

The City agrees to reimburse members of the bargaining unit for personal property lost, damaged or stolen from fire halls and parking areas, while members are on duty, to cover losses not covered by insurance up to the maximum of the unit member's insurance deductible per claim. (Not to exceed \$750.00 per claim). All claims must be submitted with proof of value.

ARTICLE 6.0 - WORK DAY AND WORK WEEK

Section 6.1 - Line Personnel

The work day for line personnel shall consist of a 10-hour day shift and a 14-hour night shift; the work week shall consist of an average 40 hours per week.

Section 6.2 - Non-Line Personnel

All members of the bargaining unit assigned to the office shall have a work day consisting of seven (7) hours and a work week consisting of thirty-five (35) hours. All others are line personnel.

Section 6.3 – Exchange of Time

Exchange of time among employees shall be allowed with the permission of the employee's supervisors, provided that such permission cannot be unreasonably withheld and, further, provided that the exchange shall not result in overtime or additional compensation being paid to employees (See Memorandum of Agreement dated August 13, 1998).

Article 7.0 - Salaries

Section 7.1 - Base Pay

The salary for straight time work to be paid to each employee covered by this Agreement during the period hereof, according to his particular classification, shall be the salary as set forth in the pay plan for the City of Niagara Falls, New York, for the years of this agreement, which pay plans for the years 2006 and 2007 are attached hereto as Schedule D and incorporated herein in the same manner as specifically herein set forth.

Sub-section 7.1.1 - Wages:

(wages shall be increased by the following amounts:)

0% effective 1/1/2004

0% effective 1/1/2005

3% effective 1/1/2006

3% effective 1/1/2007

The percentages and effective dates listed above shall apply to longevity increments as they have in prior agreements.

Sub-section 7.1.2 - Starting Pay for Newly Appointed Captains

A Captain will be compensated at a rate of pay equal to 97% of the employee's appropriate grade and step for the first two years following their promotion; Captains promoted between 12/24/01 and 3/9/07 will receive \$100.00 per month up to a maximum of 24 months, for the period where they were paid at the 1999 pay rate pursuant to the 2000-2003 Memo of Agreement between the 2 parties.

Section 7.2 - Increments

Each employee covered by the terms of this Agreement shall be accorded the normal longevity increments as provided for in Schedule D (attached). Upon completion of the longevity requirements, the employee shall receive said increment.

Section 7.3 - Overtime Pay

The City agrees to pay the rate of one and one-half (1-1/2) times the regular rate of pay for all hours worked in excess of the normal work schedule.

Sub-section 7.3.1

The distribution of overtime for ordinary staffing problems shall be administered by the Fire Chief or his designee according to following policy: A separate seniority list shall be kept by the Fire Chief in his office of all ranks. Overtime will be distributed to those qualified individuals in order of seniority as shown on the seniority lists who are not on duty. This record shall show the date of call and the response from each person called as to whether the overtime was refused or if the individual member could not be reached. If the member refuses, he will automatically be by-passed until a complete cycle of the seniority list has been made. A separate list of seniority shall be maintained for all ranks using the same above system.

Section 7.4 - Shift Differential

Uniformed personnel working the 6:00 p.m. to 8:00 a.m. shift will receive fifty cents (\$0.50) per hour as shift differential for all such hours worked. Effective January 1, 1996, the above shift differential shall be rolled into the base pay.

Section 7.5 - Off-Duty Training

Mandatory training held on a member's day off will be compensated for by payment at the rate of time and one half for all such hours. Training sessions conducted immediately before or after the member's shift will be paid at the rate of time and one-half.

Section 7.6 - Call-Back

All employees covered by the terms of this Agreement and called back to work after normal shift shall be paid at overtime rate with a guaranteed minimum of four (4) hours straight time pay.

Section 7.7 - Voluntary Training

No compensatory time or overtime pay shall be given for voluntary training including attendance at school when individual is continued on payroll.

Section 7.8 - Pay Upon Promotion

Upon promotion, all members of the bargaining unit shall be placed at the proper longevity increment and grade, as it appears in the pay plan for the City of Niagara Falls, New York.

Section 7.9 - Acting Pay

All members serving in an acting capacity of higher rank for one full day or more upon the direction of the department head to serve in said acting capacity shall receive a daily rate of pay commensurate with the rate of pay for the position which they are directed to assume. Effective August 13, 1998, the City of Niagara Falls shall discontinue the use of "acting" officers in exchange for Local 3359's withdrawal of its action in Niagara Falls Fire Department Officers Association, W. Woodcock, President v. Richard Shiah.

Section 7.10 - Additional Compensation

The City agrees that the Chief of Fire Prevention and the Training Officer will receive additional compensation of \$1900.00 per year.

Sub-section 7.10.1 - Uniform Allowance:

Effective 1/1/98, each officer, except Fire Prevention personnel, shall receive an annual allowance of \$700 for the purchase of uniforms. Any officer entitled to an annual allowance may once during his career forgo the allowance and receive the allowance as wages.

The City further agrees that Battalion Chiefs shall be entitled to \$400 for annual clothing maintenance if such individuals are required to wear a dress uniform while on duty.

Sub-section 7.10.2

The City agrees that all members of the Association required to work on a standby or call-in basis as part of their regular duties shall receive additional compensation of \$1,100 per year.

Sub-section 7.10.3

In the event a Captain is designated as Officer-in-Charge of a Firehouse by the Fire Chief, seniority shall be considered in making the appointment. Upon appointment, he shall be compensated an additional \$1,500 per year for the additional duties and responsibilities. Effective 3/9/07, a Battalion Chief In-Charge shall be compensated at a rate of \$2000 per year.

Sub-section 7.10.4

Effective January 1, 1991, when an officer is mandated to appear in Court on his scheduled day-off on behalf of the City, by an order of the Court, Fire Chief, or Police Chief, the City will compensate the officer at the rate of three (3) hours pay at his straight time rate per appearance. If an officer makes a morning and afternoon appearance in a day, he will be paid separately for each appearance, except that the maximum payment will be for two (2) appearances.

Sub-section 7.10.5

Effective January 1, 2001, eligible officers shall receive one and one-half time (1-1/2) compensation for payroll schedule adjustment. Eligible officers will receive one and one-half time (1-1/2) compensation for payroll schedule adjustment earned in either money or time off, as the officer may elect, subject to the guidelines of the Fire Chief for scheduling such time off.

All Fire Officers who work the 10/14 work schedule shall receive two (2) additional days of payroll schedule adjustment to properly reflect the actual number of hours worked throughout the year. Credit for the two (2) additional days shall commence on January 1, 2001. For a total of 14 days per year.

Sub-section 7.10.6

Each officer who becomes or maintains a New York State Emergency Medical Technician - Defibrillator Certification shall be paid the amount of \$850 per year. Payment shall be made on or before March 15 of each year.

Sub-section 7.10.7

Effective January 1, 2002, each officer each pay period shall receive Life Safety Check pay of four (4) hours.

Sub-section 7.10.8 - Instructor Selection and Compensation

Commencing on January 1, 2002, any unit member who is required by the Fire Chief to provide off-duty-training service as an instructor or coordinator shall be compensated, by either cash payment or compensatory time credit, at a time and one-half rate for all hours worked. The unit member shall have the discretion to decide the method of compensation prior to providing such service.

Existing in-house instruction programs - Existing in-house training programs include New York State Emergency Medical Technician - Defibrillator (EMT-D) and American Heart Association Cardiopulmonary Resuscitation (CPR). Current instructors in these programs shall have preference seniority over any new instructors added to the programs.

New Programs - Instructors for new programs shall be selected, by the Fire Chief on the basis of suitability and seniority of all interested members. The City shall provide for the cost and leave time necessary to qualify interested members as instructors in a new program.

Opportunities to Instruct - Offers of an assignment to instruct a class during an instructor's scheduled days off shall be based first in participation as an instructor's seniority, then in job seniority, on a rotating basis. A separate list shall be maintained for this purpose at the discretion of the Fire Chief.

By becoming an instructor, the member agrees to make himself or herself regularly available to teach and to comply with the requirements of his or her certification.

An instructor may be directed to teach during the course of his or her regularly scheduled workday without additional compensation. However, the City shall make all practicable efforts to equitably distribute the premium pay time to each instructor. The Association recognizes that some inequality in distribution of premium time may exist based on instructor's platoon assignments and the scheduling of training for community groups.

Section 7.11 - Payment of Premium Pay

All premium pay and/or pay for acting capacity shall be paid no later than thirty (30) days following the end of the quarter in which it was earned.

Section 7.12 - Paydays

The City agrees that there will be twenty-six (26) bi-weekly paydays for all members of the Fire Department.

Section 7.13 - Meals

It is agreed that the City will establish a regular program to provide meals for Officers required to work through and beyond normal meal periods.

Section 7.14 - Advisement of New Positions

In the event the position of Deputy Fire Chief or Assistant Fire Chief is created, the City shall advise the Association in writing at least 30 days prior to filling the position so that each member desirous of submitting an application for the position has an opportunity to do so.

Article 8.0 - Retirement Plan

Section 8.1 - New York State Police and Fire Retirement System

The City shall continue to make the same contribution, as at present, toward the cost for members of the Bargaining Unit for all current pension plans now adopted and in effect is known as the New York State Police and Fire Retirement System and the New York State Retirement System for those members of the Unit who are not eligible to participate in the New York State Police and Fire System. Also, the City agrees to adopt Section 360-b guaranteed ordinary death benefit for participating employers, as contained in the laws of the New York State Police and Fire System.

Sub-section 8.1.1

Effective July 1, 1983 the City will make available to firefighters the retirement benefits under Section 375-i plan of the New York State Police and Fire Retirement System and plan 75-i of the Employees Retirement System for bargaining unit employees who are not in the Police and Fire Retirement System.

Sub-section 8.1.2

Effective November 1, 1992 the Section 384-e plan was adopted by the City and offered for all eligible employees.

Sub-section 8.1.3

In the event the City agrees to extend retirement incentives to members of Firefighters Local 714, those incentives will be extended to the members of this bargaining unit.

Article 9.0 - Grievance Procedure

Section 9.1 - Disputes

Any dispute arising concerning the interpretation or application of the terms of this contract or the rights claimed to exist hereunder shall be processed in accordance with the Grievance Procedure for the City of Niagara Falls Fire Department employees as adopted by the City Council on the 8th day of August, 1966, as amended, which Grievance Procedure is attached hereto as Schedule "B" and made a part hereof as though specifically set forth herein.

Section 9.2 - Costs of Litigation

If the City fails to comply with an arbitrator's decision in a grievance arbitration, the City shall assume the costs of litigation of the Association if the arbitrator's decision is upheld and the City is enjoined to comply.

Section 9.3 - Section 75 of the Civil Service Law

In any disciplinary action undertaken by the City pursuant to Sec. 75 of the Civil Service Law, the City and Local 3359 shall mutually select a hearing officer to preside over such proceeding. In the event that the parties are unable to agree on a hearing officer, selection shall be made pursuant to Sec. 4 (d) of the Grievance Procedure contained in Sec. B of the parties' collective bargaining agreement. Any costs associated with a hearing officer for a Sec. 75 proceeding shall be the equal responsibility of both the City and Local 3359.

Article 10.0 - Time Off with Pay

Section 10.1 - Holidays

All employees covered by this Agreement shall be entitled to twelve (12) guaranteed holidays with pay as follows: New Year's Day, Martin Luther King, Jr. Day, Lincoln's Birthday, Washington's Birthday, Memorial Day, July 4th, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, Christmas Day and the employee's birthday retroactive to January 1, 1979. For pay purposes the actual date of the holiday shall be used with March 17th designated as the employee's birthday. Holidays will be paid as follows:

Sub-section 10.1.1

All line personnel will receive holiday pay, in addition to their regular pay, of twelve (12) hours pay for each holiday. Effective January 1, 1984 holiday shall be paid at the rate of time and one-half for all holidays worked. Holidays shall be defined as the actual nationally observed holidays.

Sub-section 10.1.2

In accordance with Section 63 of the New York Consolidated Laws: Public Officers, eligible members of the bargaining unit will be granted a leave of absence with pay on the day prescribed by law as a public holiday for the observance of Memorial Day and Veterans Day. In the event that the employer is unable to grant leave on these days, where the granting of such leave would endanger the public safety, such member shall be entitled to leave of absence with pay on another day in lieu thereof. If the eligible member works either or both of these holiday, they will be compensated as per Sub-section 10.1.1 of the CBA. Eligible members will be considered as any member of the bargaining unit who served on active duty in the army, navy, marine corps, air force or coast guard of the United States, and who was honorably discharged or separated from such service under honorable conditions

Sub-section 10.1.3

The Chief of Fire Prevention, Master Mechanic/Chief of Apparatus, Assistant Master Mechanic, and Training Officer will receive special duty pay in addition to regular salary in the amount of 6% of the comparable officer's salary for special services rendered.

Sub-section 10.1.4

All parties agree that when an employee is scheduled to work the day immediately preceding, immediately following, or the holiday itself and sick leave is taken on any of said days, then a physician's letter must be presented to be eligible for holiday pay. This provision will not be enforced on the first occasion for each employee per calendar year.

Section 10.2 - Vacations

All employees covered by the terms of this Agreement shall be entitled to annual vacation with pay in addition to the holidays mentioned in Section 10.0 above, as follows:

Sub-section 10.2.1

During the first calendar year of service - no vacation with pay.

Sub-section 10.2.2

After the first calendar year of service - not to exceed two (2) workweeks based on the proportion of months worked during the first year related to a two (2) week's vacation for twelve months of service.

Sub-section 10.2.3

After the second calendar year of service - two (2) workweeks based on the previous year's service.

Sub-section 10.2.4

After five (5) years or completion of two hundred sixty (260) weeks of service - three (3) workweeks based on the previous year's service.

Sub-section 10.2.5

After ten (10) years or completion of five hundred twenty (520) weeks of service - four (4) workweeks based on the previous year's service.

Sub-section 10.2.6

After fifteen (15) years or completion of seven hundred eighty (780) weeks of service - five (5) workweeks based on the previous year's service. Any employee hired after November 15, 1979 who later becomes a member of this Bargaining Unit shall not become eligible for a maximum vacation in excess of five (5) weeks.

Sub-section 10.2.7

After twenty-five (25) years or completion of thirteen hundred (1300) weeks of service - six (6) workweeks based on the previous year's service. Except as limited in 10.2.6 above.

Sub-section 10.2.8

Unused vacation may be accumulated up to a maximum of sixteen weeks

Sub-section 10.2.9

It is understood that a workweek for annual vacation purposes for line personnel shall be the four (4) day work cycle as established under the current work schedule.

Sub-section 10.2.10

Effective August 13, 1998, the vacation policy dated December 18, 1996 shall replace this section and shall remain in effect until the parties mutually agree to the contrary. There shall be eight slots per block for 1998 and six slots per block for 1999 and thereafter. It is further agreed by the City that vacation draws shall be accomplished by January 1, of each year.

Sub-section 10.2.11

Effective January 1, 1999, a bargaining unit member may request vacation cash conversion during the month of August of the preceding year.

A bargaining unit member may convert into cash up to two (2) weeks of vacation time provided the employee uses the same number of weeks (subject to maximum of 2) for which he/she is requesting conversion.

If a bargaining unit member converts vacation time into cash and subsequently does not take the equal time off in actual vacation, he/she will not be able to carry over those weeks into the next year.

Vacation cash conversion will be paid during the month of July.

Sub-section 10.2.12

Effective August 13, 1998, all parties agree that all members of the Bargaining Unit shall be allowed to use their compensatory days during the four days immediately preceding and the four days immediately following annual vacation periods, to a maximum of four compensatory days for the entire period. Any remaining compensatory time shall be drawn, by seniority, pursuant to the terms of the compensatory time policy dated December 18, 1996. At the time of the draw, fire officers must state their intention to either bank, sell or apply their compensatory time to add on to their vacation time. At the conclusion of the vacation draw, each fire officer shall declare whether he/she wishes to retrieve previously banked vacation time. No more than two (2) Captains off on any one shift up to the sixth vacation slot, if available, pursuant to Sub-section 10.2.11.

Sub-section 10.2.13

In accordance with the Memorandum of Agreement dated August 13, 1998, each member of Local 3359 shall bank, at a minimum, one four-day block of vacation time and one four-day block of compensatory time, which he/she was forced to take in 1998 due to the changes in departmental policies. Any compensatory time, which is banked pursuant to this paragraph, must be retrieved from the bank or sold during 1999.

Section 10.3 - Sick Leave

All employees covered by the terms of this Agreement shall be entitled to pay for absence from work because of personal illness as follows:

Sub-section 10.3.1

One (1) day sick leave credit granted per month of employment with the right to accumulate a maximum of one hundred eighty (180) days.

Sub-section 10.3.2

Whenever an employee is absent because of his personal illness, the number of work days of absence with pay shall be charged against his sick leave credit.

Section 10.4 - Verification of Sick Leave

An employee covered by terms of this Agreement who is entitled to sick leave in accordance with the above sub-section 10.3.1 and 10.3.2 shall be paid while absent from work due to personal illness only.

Sub-section 10.4.1

Whenever an employee is absent because of personal illness for five (5) consecutive working days, a physician's certification will be required and submitted within five (5) working days of the return to work, in order for the absence to be charged against sick leave credit.

Sub-section 10.4.2

After written notice to that effect, any periods of absence in excess of five (5) instances during a one-year period may, at the discretion of the department head, require a physician's letter, regardless of the number of days taken in a subsequent period of absence. If an employee submits a physician's certificate for any absence, that period of absence shall not be counted toward the total of five (5).

- A. Each fire officer's year shall start at whatever time the individual first calls in sick.
- B. Individual's year shall end twelve (12) months from the above incident. Instances during each officer's twelve-month period shall not count towards the individual's next year.

Sub-section 10.4.3

An employee on sick leave, with a valid reason to leave the City may do so only by requesting and receiving permission of the City's physician or of the Fire Chief. Such permission shall state the condition under which the approval is granted.

Sub-section 10.4.4

The Fire Chief may recommend disciplinary action when he has reviewed the employee's absentee record, taking into account unusual circumstances of a particular absence, the employee's pattern of absenteeism, efforts to improve attendance and any other circumstances, which may be present.

Sub-section 10.4.5

The City shall maintain the right to have an employee examined at City expense by a physician of its choice when it believes such an examination is warranted.

Sub-section 10.4.6

The employee is to call in at least one hour before the shift to inform the department of illness. This may be verified on the same day of the call in by a telephone call or personal visit of a designee of the Fire Chief.

Section 10.5 - Upon Termination

Unused accumulation sick leave will be paid as follows:

Employees entitled to sick leave and who have been in the employ of the City for three (3) or more years, prior to termination of service, shall be entitled to payment of 50% of unused sick leave upon their termination of service. There is no cap on the maximum number of sick leave days, which can be paid upon termination of service.

Sub-section 10.5.1

For the purpose of this section, all employees shall be granted one (1) day sick leave credit per month of employment with unlimited accumulation of sick leave credit.

Sub-section 10.5.2

Whenever such employee is absent because of personal illness, the number of days of absence with pay shall be charged against his sick leave credit accumulated for purposes of pay while absent from work, and also against his sick leave credit accumulated for purposes of death or termination of service benefits.

Sub-section 10.5.3

Employees who are discharged, dismissed, fired or separated from the employ of the City because of fault or delinquency on their part shall not be entitled to the benefit of this section.

Sub-section 10.5.4

The full value of one sick day shall be considered equal to 1/10th of the bi-weekly pay of the employee.

Section 10.6 - Sick Bank

A sick leave bank shall be created with the provision that each member will initially contribute 4 days to said bank and further, in the event that the bank falls below 100 days, members will be assessed to insure the minimum of 100 days in the bank.

Sub-section 10.6.1

The days in the sick leave bank may be used by a member of the Bargaining Unit only after the depletion of all his regular sick leave days in the amount of 1/2 the days of his accrued sick leave at the time of his illness.

Sub-section 10.6.2

A second sick leave bank will be established requiring each member of the Bargaining Unit to contribute one day per year of sick leave time, which bank will defray the cost of life insurance on a member after retirement (details of benefit in sub-section 11.5.1. of this contract).

Sub-section 10.6.3

Administration of the Sick Leave Bank is attached hereto and labeled Schedule "A".

Section 10.7 - Personal Leave

All unit members shall receive four (4) days of personal leave per year. Maximum accrual of personal leave days shall be six (6) days. In addition to the provisions contained herein, personal leave days requested shall be granted on a first come, first serve basis, at the discretion of the Fire Chief, or his designee, based upon prevailing force and workload.

Sub-section 10.7.1

The employees must give notification in advance to the department head. Except in cases of emergency, such advance notification will be in direct relation to the number of days requested.

Sub-section 10.7.2

For example: One day leave - one day notification, five days leave - five days notification.

Sub-section 10.7.3

Employees may accumulate two (2) unused personal leave days per year to a maximum personal leave balance of six (6) days.

Sub-section 10.7.4

In the event of resignation, retirement or termination (but not death) prior to July 1, employees leave entitlement for that year shall be pro-rated whether the leave has been used or unused in whole or in part, as follows:

Sub-section 10.7.5

Effective January 1, the first day will have been earned, April 1, the second day will have been earned, July 1, the third day will have been earned and, October 1 all four days will be fully accrued.

Section 10.8 - Section 207-(a)

All employees covered by the terms of this Agreement and who qualify under Section 207-(a) of the General Municipal Law shall receive full pay for service-connected disability as provided for under said Section 207-(a) of the General Municipal Law.

Section 10.9 - Death Benefit

A death benefit shall be payable to the widows and orphans of all employees covered by the terms of this Agreement and the provisions of Section 208-(b) of the General Municipal Law of the State of New York who may die in the performance of their duties. Said benefit shall be paid in strict accordance with the provisions of Section 208-(b) of the General Municipal Law of the State of New York. Such benefit shall be payable upon the presentation of an application therefore to the City Administrator of the City of Niagara Falls, New York, and upon the determination of the City Administrator on the basis of the evidence that such employee died within one (1) year after, and as the natural and proximate result of injuries sustained at a definite time and place and incurred in the performance of duty as a member of the Fire Department and did not cause such accident by his own willful negligence. The death benefit shall be paid upon the allowance of the claim by the City Administrator and shall consist of an amount equal to the salary received by such member either during the year immediately preceding his death or during the year preceding such injuries, whichever is greater, and One Thousand dollars (\$1,000) for each child of such member under eighteen (18) on the date of the member's death.

Sub-section 10.9.1

The provisions of Section 208-(b) of the General Municipal Law, as amended from time to time, with reference to the application for death benefits and payment of the same shall be strictly complied with by the City of Niagara Falls, New York.

Section 10.10 - Bereavement Leave

In the case of death of a member of the immediate family of any employee covered by the terms of this Agreement with one (1) or more years of continuous service, such employee shall be granted as an excused absence four (4) consecutive days in connection therewith commencing with the day of death or the day following the day of the death. During these four (4) days the employee will be paid his regular rate, but such hours and pay shall not be considered as hours worked in computing time payable for hours worked in excess of the regular work week.

Sub-section 10.10.1

For the purpose of determining eligibility for the foregoing benefits an immediate member of the family shall be limited to: father or mother, father-in-law or mother-in-law, husband or wife, brother or sister, son or daughter or a relative residing within the household of the employee.

Sub-section 10.10.2

No pay allowance shall be made for multiple or for simultaneous deaths occurring within any four (4) day period. No pay allowance shall be granted in the case where because of distance or other cause, the Employee does not attend the funeral of the deceased.

Sub-section 10.10.3

Such employee shall be granted as an excused absence one (1) bereavement day for direct relatives other than the immediate family as follows: Son-in-law, Daughter-in-law, Grandchildren, Grandparents, Brother-in-law, Sister-in-law, Uncles, Aunts, Nephews, Nieces, First cousin, Step-parents, Step-children.

Section 10.11 – Jury Duty

Effective December 7, 1998, when a bargaining unit member is summoned to report for jury duty, the member will be excused for work with pay. The member who reports for jury duty shall not be required to work for eight (8) hours prior to the beginning of jury duty and for the eight (8) hours after the jury service. All jury service per Diem fees shall be remitted to the City.

Section 10.12 - Maternity Leave Policy

When an employee becomes pregnant, it is required that she report her condition to her commanding officer immediately.

Once the employee has provided the department with verification of her pregnancy from her own doctor, she shall be offered a doctor approved duty assignment within the department. While on a doctor approved duty assignment, the employee will participate in department level training or classes that other fire personnel are undergoing, as long as the class activities do not pose any risk to the employee.

When an employee and her treating physician decide that she can no longer work, the member will be allowed to utilize accrued sick time. If additional time is needed, the employee has the option of using any or all of her accumulated leave to date, including vacation, comp, and personal days. After all such time has been used; she will be able to use the time off specified in the FMLA (Family Medical Leave Act).

After giving birth, or at the termination of the pregnancy, the employee shall be returned to her previously held position upon approval from her personal physician. Such verification of readiness to work shall be in writing and submitted to the Fire Chief.

Article 11.0 - Insurance

Section 11.1 - Hospitalization

The City's Health Insurance Agreement dated as set forth in Schedule D is adopted.

Section 11.2 – Hospitalization Retirees

After 20 years of service, upon retirement members will have a continuation of the medical insurance benefits provided in Section 11.1 without any cost to the retiree.

Section 11.3 - Hospitalization when Sick

City will continue to pay for health insurance one month for each year of service for employees retiring under the New York State Disability Retirement Plan.

Sub-section 11.3.1

The City further agrees to provide health insurance for employees on certified sick leave, as long as they are on sick leave.

Sub-section 11.3.2

The City further agrees to provide health insurance for employees on sick leave without pay as follows: One month coverage for each year of service up to a maximum of twelve (12) months.

Sub-section 11.3.3

Fire Officers with less than twenty years service, who retire due to a service related disability pursuant to GML 207 (a) shall be provided with health insurance.

Section 11.4 - Life Insurance

All employees while in the employ of the City and covered by terms of this Agreement shall be entitled to life insurance in the full amount equal to the lowest thousand dollar sum of the salary of said employee. The City of Niagara Falls, New York shall pay the cost of said life insurance.

Section 11.5 - Life Insurance: Retirees

All employees retiring at age sixty-two (62) or over with twenty (20) years of City employment, the City will provide life insurance in the amount of \$1,500.00.

Sub-section 11.5.1

Effective January 1, 1991, the City shall apply an amount equal to the premium paid for the employee's life insurance coverage at the time of retirement to the cost of life insurance on a member after retirement as arranged by the City's insurance carrying agent so long as the sick bank is set up to defray such cost and is maintained according to sub-section 10.6.2 of this contract. Any member who has received such benefit shall continue to receive it until death, regardless of whether or not the sick bank is maintained.

Sub-section 11.5.2

Effective March 9th 2007, all current members of the bargaining unit will have a one time option of continuing to operate under the terms of Section 11.5 and Sub-section 11.5.1. Should they choose to continue all terms will remain in effect until retirement. Should they choose to withdraw, the members will no longer have to contribute to the sick bank as directed by this section; the City will then no longer provide the life insurance following retirement. Following the retirement of all the active employees, this section will be deleted from the contract.

Article 12.0 - Uniforms and Equipment

Section 12.1 - Uniforms

The City agrees that all members of the Bargaining Unit upon appointment, will be provided with a dress uniform, to include hat, blouse, trousers, outer garment, shirt, tie and badges, two (2) fatigue uniforms and turn-out clothing and equipment to include helmet, turnout coat, boots, spanner and belt, two (2) pairs of gloves (winter and summer) and all other protective and occupational equipment required by the Fire Chief.

Section 12.2 - Replacement

The City shall maintain its present policy as to replacement of uniforms and related equipment, bedding and linen and stoves and refrigerators which policy shall be changed only after consultation with the Association.

Section 12.3 - Eyeglasses

The City shall replace eyeglasses of members of the Association, which are lost or damaged while such employees are on duty.

Article 13.0 - Tuition Assistance

Section 13.1 - Program

Effective January 1, 1975 the City agrees that in addition to the tuition assistance program already in effect for the Association the following provisions will also be included in the program: The City agrees to pay 100% of the full cost of tuition, books and fees for all members of the Bargaining Unit successfully completing job-related courses in Fire Science Technology or Administration-Payment to be made according to the following schedule:

Sub-section 13.1.1

One half of all expenses above mentioned upon presentation of evidence of successful completion of individual courses.

Sub-section 13.1.2

All such expenses previously not reimbursed shall be paid in a lump sum upon completion of (2) years continuous service from date of completion of such courses.

Sub-section 13.1.3

To be eligible for benefits under this provision the courses must be approved and accredited by the New York State Board of Regents.

Article 14.0 - Separability

Section 14.1 - Subject to Laws

This Agreement and all provisions herein are subject to all applicable laws and in the event any provision of this Agreement is held to violate such laws, said provision shall not bind either of the parties but the remainder of this Agreement shall continue in full force and effect.

Article 15.0 - No-Strike Provision

Section 15.1 - Work Stoppages

The Association shall not engage in a strike or other concerted stoppage of work or slow down or cause to instigate, assist or participate in any such strike, concerted stoppage of work or slow down or impose an obligation to conduct, assist or participate in any such strike, concerted stoppage of work or slow down against the City.

Section 15.2 - File with Clerk

The Association shall file with the City Clerk of the City of Niagara Falls, New York, for the period of its unchallenged representation status an affirmation of said Association that it does not assert the right to strike or the right to participate in any strike, concerted stoppage of work or slow down or that it will not cause, instigate, assert or participate in any strike, concerted stoppage of work or slow down in strict compliance with the New York State Public Employee's Fair Employment Act as shall from time to time to be amended.

Article 16.0 - Required Approval

Section 16.1 - Provision of Funds

It is agreed by and between the parties that any provision of this Agreement requiring legislative action to permit its implementation by amendment of law or by providing additional funds therefore, shall not become effective until the appropriate legislative body has given approval.

Article 17.0 - Evaluation

The Niagara Falls Fire Officers' Association recognizes the need for cooperative effort with the City in obtaining optimum efficiency in the operation of the Fire Department Officers and, agrees to submit to semi-annual evaluation by Fire Department Officers for the purpose of improvement when necessary or recognition when warranted. It is understood that such evaluation shall not be used against the employee in any disciplinary action and the City guarantees safeguards against using said evaluation for the purpose of discrimination or harassment.

Article 18.0 – Random Drug Testing

Effective 3/9/07, Random drug testing will be implemented according to SCHEDULE "F" (attached)

Article 19.0 - Duration of Agreement

Section 19.1 - Expiration Date

The effective date of this Agreement is January 1, 2004. This Agreement shall remain in full force and effect until December 31, 2007 and from year to year thereafter unless either party serves written notice of their desire to amend, modify or terminate this Agreement.

Section 19.2 - Notice to Negotiate

Notice is to be given by the Union to the City of its intent to negotiate the contract before March 31st of each year the contract expires.

2004 - 2007 Contractual Agreement

-between-

The City of Niagara Falls, New York

-and-

Niagara Falls Fire Department Officers Association, Local 3359

CITY OF NIAGARA FALLS, NEW YORK FIRE OFFICERS ASSOCIATION

Paul Dyster
Mayor

Gregory Colangelo
President

William Bradberry
City Administrator

Thomas O'Donnell
Acting Corporation Counsel

ATTEST:

Carol Antonucci,

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SCHEDULE "A"

SICK LEAVE BANK ADMINISTRATION

Effective January 1, 1980, all members of the Niagara Falls Fire Department Officer's Association shall have four days deducted from their accumulated sick leave days to form a sick leave bank. No other days will be deducted until said bank falls below one hundred days at which time an additional day or more will be assessed to maintain at least one hundred days in the bank. Any new member to the Association will contribute two sick leave days to the bank upon appointment.

1.The Sick Leave Bank was formed to ensure a member officer's salary and benefits until such time as the officer could return to duty. An individual who draws on Sick Leave Bank does not accumulate additional vacation days while on sick bank coverage. An individual must use all vacation days in excess of twelve (12) weeks before such individual is entitled to draw on the Sick Leave Bank. An individual drawing on the Sick Leave Bank is entitled to all other contractual benefits including holiday pay and sick day leave accrual.

2.The Sick Leave Bank Committee shall maintain the right to have a member examined by a physician of its choice at the Association's expense.

3.Application to the Sick Leave Bank must include a prognosis by the attending physician including a statement to the effect that the applicant will return to duty. The Sick Leave Bank Committee must approve entitlement to Sick Leave Bank benefits before any such benefit is paid.

4.The Sick Leave Bank Committee shall consist of three Association members, and two members from the City of Niagara Falls. The City members shall be appointed by the Fire Chief.

5.No applicant to the Sick Leave Bank shall sell his vacation weeks and any vacation time sold during a lengthy illness prior to application must be repaid to the City before any consideration shall be given by the Sick Leave Bank Committee.

6.If an applicant to the Sick Leave Bank does not return to duty, the Sick Leave Bank Committee shall request that the monetary worth of the Sick Leave Bank days used be deducted from the applicants final pay check from the City, to reimburse the Sick Leave Bank for the number of days used.

7.The Sick Leave Bank must be maintained at two sick days, times the number of Officers that are members of the Sick Leave Bank. When the number of sick days in the bank equals one half times the total number as above in the Sick Leave Bank, the Officers will be assessed by the number of Officers in the bank total.

8.The City allows an accumulation of 180 sick days. Award of sick days will be calculated by multiplying the number of sick days remaining prior to the illness or injury by 50%.

9.Sick days will count on a day for day basis, regardless of number of hours needed to cover a "day".

10.Sick days will become the property of the Sick Leave Bank, to be disposed of at the discretion of the committee, and will not be returned to the member.

11.A new member will be accepted once he/she has accumulated the total of 12 sick leave days. At this time, the member must deposit a minimum of two (2) days into the Sick Leave Bank.

SCHEDULE "B"

GRIEVANCE PROCEDURE FOR THE CITY OF NIAGARA FALLS FIRE DEPARTMENT OFFICERS ASSOCIATION

Section 1. Declaration of Policy

The purpose of this Grievance Procedure is to provide an orderly process whereby the members of the Fire Department Officers Association of the City of Niagara Falls may equitably and expeditiously settle any difference or grievances that may arise in the course of their employment, free from coercion, restraint, interference, discrimination or reprisal. The provisions contained herein shall liberally be construed for the accomplishment of these objectives.

Section 2. Definition

As used herein, the following terms have the following meanings:

a. "City" means the City of Niagara Falls.

b. "Employee" shall mean any person who is a member of the Fire Department Officers Association Bargaining Unit as the same is defined in the contract between the City of Niagara Falls, New York and the Niagara Falls Officers Association.

c. "Superiors" means persons regardless of title, who are assigned to exercise any level of supervisory responsibility over City employees.

d. "Committee" means the Labor Relations Committee, as established by Resolution of the City Council dated February 3, 1964 and amended February 1, 1965, or as otherwise designated by City Council.

e. "Decision" means the written disposition and determination of a grievance by the Labor Relations committee and/or Arbitrators.

f. "Days" shall mean all days other than Saturday, Sunday and legal holidays. Sunday, Saturday and legal holidays shall be excluded in computing the number of days within which action must be taken or notice given within the terms of this procedure.

g. "Representative" shall mean any person, persons or group selected by the employee to stand or act for said employees.

h. "Grievance" shall include all claimed violations of any contract existing between the City of Niagara Falls and the employees covered by this Agreement and in addition, shall include all claimed violations, misinterpretations, inequitable applications of the existing written rules, procedures, regulations, administrative orders or work rules of the City of Niagara Falls, New York or department or agency thereof, all of which relate to or involve employee health or safety, physical facilities, materials or equipment furnished to employees or supervision of employees, including matters involving employee's rates of compensation, retirement benefits, and disciplinary proceedings where the consideration of such would not be contrary to any law, rules or regulation having the force and effect of law.

Section 3. Basic Standards and Principles

All grievances shall be presented within 180 calendar days from the date of the cause of the grievance occurs. In those instances where the nature of the grievance is such that it cannot be readily known the grievance shall be filed within one (1) year from the date the grievance occurs. Unless the grievance is filed in accordance with the time limitations of this section, it shall not be entitled to consideration under this procedure.

Every employee shall have the right to present his grievance in accordance with the procedures provided herein, free from interference, coercion, restraint, discrimination or reprisal, and shall have the right to be represented at all stages thereof.

It shall be a fundamental responsibility of persons in supervisory capacity at all levels, commensurate with the authority delegated to them by their superiors, promptly to consider and take appropriate action upon grievances presented to them by employees under their supervision. To such extent as is practicable, appropriate authority is hereby delegated to such persons with supervisory duties to take such steps as may be necessary to give effect to the provisions prescribed herein.

It shall be the responsibility of the head of appropriate department or agency of the City of Niagara Falls to take such steps as may be necessary to give effect to the provisions prescribed herein.

Section 4. Procedure

A three-stage grievance procedure with a right of arbitration for employees of the City of Niagara Falls is hereby established as follows:

A. First Stage

The first procedural stage shall consist of the employee's presentation of his grievance to his immediate superior who shall to such extent as he may deem appropriate, consult in turn with his superiors. A statement of grievance at this stage shall be presented on a written form stating the nature of the grievance and the date submitted and shall be receipted by the employee's superior. The discussion and resolution of the grievance at the first stage shall be on an oral and informal basis. However, the action taken at this stage shall be in writing, which writing shall contain the date such action is taken. If such grievance is not satisfactorily resolved at this first stage within two (2) days from the date of submission, the aggrieved employee may proceed to the second stage.

B. Second Stage

The second procedural stage shall consist of a request by the aggrieved employee for a review and determination of his grievance, by the head of the department concerned or his designee. In such case, the aggrieved employee and his immediate superior shall each submit to the head of the department concerned or his designee, within two (2) days of the date of the action taken in the first stage, a written statement setting forth the specific nature of the grievance and the facts relating thereto. Such statement shall be made upon a form numbered and supplied by the Personnel Department of the City of Niagara Falls. Upon receipt of the statement of the grievance, the department head concerned or his designee shall, at the request of the employee, hold an informal hearing at which the employee and/or his representative shall appear and present oral and written statements or recommendations.

The final determination of the second stage of such grievance proceeding shall be made by the head of the department or his designee within five (5) days from the date of submission to him of said grievance. The decision shall be made in writing and communicated to the employee presenting the grievance and the employee's representative if any, and a copy of the decision shall be submitted to the chairman of the Labor Relations Committee. If such grievance is not satisfactorily resolved at the second stage within five (5) days from the date of submission, such employee may proceed to the third stage.

C. Third Stage

The third procedural stage shall consist of a request by the aggrieved employee for a review and determination of his grievance by the Labor Relations Committee. In such a case, the aggrieved employee shall submit his request to the Labor Relations Committee within five (5) days from the date of the determination of the department head. The department head, upon notice, shall forward all papers filed pursuant to said grievance to the Labor Relations Committee. The Labor Relations Committee shall schedule a hearing within (5) days of submission of the grievance to take testimony of the parties and their witnesses, receiving documents or other papers submitted to it, issue subpoenas and establish rules for the conduct of the hearings not inconsistent with this grievance procedure.

The Labor Relations Committee shall make its determination of the grievance and shall render its decision in writing within ten (10) days from the date of the hearing. The decision shall be filed with the City Administrator and a copy shall be filed in the office of the Personnel Department of the City of

Niagara Falls which copy shall be open to inspection to all parties with an interest therein. Copies of the decision shall be sent to all persons directly concerned and affected by it.

If such grievance is not satisfactorily resolved at the third stage within ten (10) days, such employee may proceed to arbitration.

D. Arbitration

All grievances which are not amicably settled as provided for in Section A, B, and C of this grievance procedure shall, upon the written demand of either of the parties hereto, be submitted to arbitration. The arbitrator shall be selected as soon as practicable after written notice demanding the appointment of said arbitrator by either of the parties hereto, which demand must be made within (5) days of the date of the Labor Relations Committee's decision. Said arbitrator shall be selected by mutual agreement from names supplied by P.E.R.B. The parties shall request the Public Employment Relations Board to select a panel of not more than five (5) arbitrators from the Western New York area. If a party fails to timely return its selections to the Director of Conciliation, all names submitted on the panel list shall be deemed acceptable to such party and the designation of the arbitrator shall be made according to the preferences of the party whose selections have been timely received. The decision of the arbitrator thus selected, shall be binding upon both parties to this agreement when the same is in accordance with law and has been made in writing and a copy filed with the employee and collective bargaining representative and with the Labor Relations Committee of the City of Niagara Falls, and shall be considered as a final determination of the question or questions of fact submitted to arbitration. Both parties hereto shall divide the expenses and fees of the arbitrator selected.

Section 5. Meetings

All meetings called or scheduled pursuant to a stated grievance shall whenever practicable, be scheduled between the hours of 9:00 and 5:00, Monday through Friday, of any workweek. Any employee scheduled to work when a meeting is scheduled, shall continue to receive normal compensation notwithstanding his attendance at said meeting.

Section 6. Union Attendance

The Union or employees association representing the employee involved in any grievance proceeding shall have the right to attend all proceedings conducted pursuant to this grievance procedure, subsequent to the first proceeding as contained herein in Subparagraph A of Section 4.

Section 7. Class Grievance

The Firefighter's Officers Association may submit a so-called "class" grievance i.e., one involving a matter of general effect on the memberships, provided there is at least one specific instance of action by the City resulting in an alleged violation of the contract.

**WAGE SCHEDULE C
CITY OF NIAGARA FALLS, NEW YORK
FIRE DEPARTMENT OFFICERS ASSOCIATION**

EFFECTIVE 1/1/06 - 12/31/06

<u>GRADE 6A (35 HRS)</u>	<u>ANNUAL</u>	<u>HOURLY</u>	JOB CLASS CODE 8440***	
NORMAL INCREMENT .0	-	-	CAPTAINS APPT'D AFTER 11/13/01 RATE FROZEN FOR 2 YEARS AFTER APPT.	
WITH 5 YR. LONG. .1	54435.38	29.9096	47040.44	25.8464
WITH 10 YR. LONG. .2	55061.50	30.2536	47581.35	26.1436
WITH 15 YR. LONG. .3	55691.18	30.5995	48125.53	26.4426
WITH 20 YR. LONG. .4	56326.11	30.9484	48674.26	26.7441
WITH 25 YR. LONG. .5	56955.22	31.2941	49217.89	27.0428
WITH 30 YR. LONG. .6	57589.21	31.6424	49765.71	27.3438

*Fire Captain - Training Officer (8431)

* Receives additional 6% per year Special Duty Pay plus \$1900 per year Additional Compensation

<u>GRADE 6B (40 HRS)</u>	<u>ANNUAL</u>	<u>HOURLY</u>	JOB CLASS CODE 8435***	
NORMAL INCREMENT .0	-	-	CAPTAINS APPT'D AFTER 11/13/01 RATE FROZEN FOR 2 YEARS AFTER APPT.	
WITH 5 YR. LONG. .1	55261.92	26.5682	47754.72	22.9590
WITH 10 YR. LONG. .2	55887.93	26.8692	48295.73	23.2191
WITH 15 YR. LONG. .3	56518.23	27.1722	48840.27	23.4809
WITH 20 YR. LONG. .4	57154.52	27.4781	49390.02	23.7452
WITH 25 YR. LONG. .5	57781.38	27.7795	49931.86	24.0057
WITH 30 YR. LONG. .6	58415.96	28.0846	50480.14	24.2693

*Asst Master Mechanic (8420)

**Fire Captain (8430)

* Receives additional 6% per year Special Duty Pay plus \$1900 per year Additional Compensation

** When assigned as Officer-in-Charge, receives additional \$1500 per year

*** Captains promoted between 12/24/01 and 3/9/07, will receive \$100 per month up to a maximum of 24 months for the period they were paid at the lower starting rate, eff 4/1/07. (2004 - 2007 contract)

<u>GRADE 8A (35 HRS)</u>	<u>ANNUAL</u>	<u>HOURLY</u>
NORMAL INCREMENT .0	-	-
WITH 5 YR. LONG. .1	61389.78	33.7306
WITH 10 YR. LONG. .2	62032.39	34.0837
WITH 15 YR. LONG. .3	62673.13	34.4358
WITH 20 YR. LONG. .4	63305.99	34.7835
WITH 25 YR. LONG. .5	63951.23	35.1380
WITH 30 YR. LONG. .6	64587.28	35.4875

* Battalion Fire Chief 35 Hrs (8471)

*When assigned as Training Officer or Chief of Fire Prevention, receives additional 6% per year Special Duty Pay plus \$1900 per year additional compensation plus a \$400 per year for Clothing Maintenance

<u>GRADE 8B (40 HRS)</u>	<u>ANNUAL</u>	<u>HOURLY</u>
NORMAL INCREMENT .0	-	-
WITH 5 YR. LONG. .1	62225.15	29.9159
WITH 10 YR. LONG. .2	62867.66	30.2248
WITH 15 YR. LONG. .3	63507.81	30.5326
WITH 20 YR. LONG. .4	64141.31	30.8372
WITH 25 YR. LONG. .5	64786.18	31.1472
WITH 30 YR. LONG. .6	65422.25	31.4530

* Battalion Fire Chief (8470)**

* Receives additional \$400 per year for Clothing Maintenance

<u>GRADE 8C (40 HRS)</u>	<u>ANNUAL</u>	<u>HOURLY</u>
NORMAL INCREMENT .0	-	-
WITH 5 YR. LONG. .1	61635.35	29.6324
WITH 10 YR. LONG. .2	62271.21	29.9381
WITH 15 YR. LONG. .3	62905.36	30.2430
WITH 20 YR. LONG. .4	63532.66	30.5445
WITH 25 YR. LONG. .5	64171.31	30.8516
WITH 30 YR. LONG. .6	64801.39	31.1545

** Master Mechanic/Chief of Apparatus (8460)

** Receives additional 6% per year Special Duty Pay plus \$1900 per year Additional Compensation

**WAGE SCHEDULE D
CITY OF NIAGARA FALLS, NEW YORK
FIRE DEPARTMENT OFFICERS ASSOCIATION**

EFFECTIVE 1/1/07 - 12/31/07

<u>GRADE 6A (35 HRS)</u>	<u>ANNUAL</u>	<u>HOURLY</u>	JOB CLASS CODE 8440***	
NORMAL INCREMENT .0	-	-	CAPTAINS APPT'D AFTER 3/9/07 RATE FROZEN FOR 2 YEARS AFTER APPT.	
WITH 5 YR. LONG. .1	56068.63	30.8069	54386.57	29.8827
WITH 10 YR. LONG. .2	56713.35	31.1612	55012.13	30.2264
WITH 15 YR. LONG. .3	57361.91	31.5175	55641.06	30.5720
WITH 20 YR. LONG. .4	58015.89	31.8769	56275.41	30.9206
WITH 25 YR. LONG. .5	58663.88	32.2329	56903.96	31.2659
WITH 30 YR. LONG. .6	59316.89	32.5917	57537.38	31.6139

*Fire Captain - Training Officer (8431)

* Receives additional 6% per year Special Duty Pay plus \$1900 per year Additional Compensation

<u>GRADE 6B (40 HRS)</u>	<u>ANNUAL</u>	<u>HOURLY</u>	JOB CLASS CODE 8435***	
NORMAL INCREMENT .0	-	-	CAPTAINS APPT'D AFTER 3/9/07 RATE FROZEN FOR 2 YEARS AFTER APPT.	
WITH 5 YR. LONG. .1	56919.57	27.3652	55211.99	26.5442
WITH 10 YR. LONG. .2	57564.57	27.6753	55837.63	26.8450
WITH 15 YR. LONG. .3	58213.77	27.9874	56467.36	27.1478
WITH 20 YR. LONG. .4	58868.95	28.3024	57102.88	27.4533
WITH 25 YR. LONG. .5	59514.83	28.6129	57729.38	27.7545
WITH 30 YR. LONG. .6	60168.44	28.9271	58363.39	28.0593

*Asst Master Mechanic (8420)

**Fire Captain (8430)

* Receives additional 6% per year Special Duty Pay plus \$1900 per year Additional Compensation

** When assigned as Officer-in-Charge, receives additional \$1500 per year (code 304)

*** Captains promoted between 12/24/01 and 3/9/07, received \$100 per month up to a maximum of 24 months for the period they were paid at the lower starting rate. (2004 - 2007 contract)

<u>GRADE 8A (35 HRS)</u>	<u>ANNUAL</u>	<u>HOURLY</u>
NORMAL INCREMENT .0	-	-
WITH 5 YR. LONG. .1	63231.29	34.7425
WITH 10 YR. LONG. .2	63893.36	35.1062
WITH 15 YR. LONG. .3	64553.32	35.4689
WITH 20 YR. LONG. .4	65205.17	35.8270
WITH 25 YR. LONG. .5	65869.58	36.1921
WITH 30 YR. LONG. .6	66524.90	36.5521

* Battalion Fire Chief 35 Hrs (8471)

*When assigned as Training Officer or Chief of Fire Prevention, receives additional 6% per year Special Duty Pay plus \$1900 per year additional compensation plus a \$400 per year for Clothing Maintenance

<u>GRADE 8B (40 HRS)</u>	<u>ANNUAL</u>	<u>HOURLY</u>
NORMAL INCREMENT .0	-	-
WITH 5 YR. LONG. .1	64091.91	30.8134
WITH 10 YR. LONG. .2	64753.48	31.1315
WITH 15 YR. LONG. .3	65413.04	31.4486
WITH 20 YR. LONG. .4	66065.55	31.7623
WITH 25 YR. LONG. .5	66729.76	32.0816
WITH 30 YR. LONG. .6	67384.92	32.3966

* Battalion Fire Chief (8470)**

* Receives additional \$400 per year for Clothing Maintenance

** When assigned as Battalion Chief-in-Charge, receives additional \$2000 per year

<u>GRADE 8C (40 HRS)</u>	<u>ANNUAL</u>	<u>HOURLY</u>
NORMAL INCREMENT .0	-	-
WITH 5 YR. LONG. .1	63484.41	30.5214
WITH 10 YR. LONG. .2	64139.35	30.8362
WITH 15 YR. LONG. .3	64792.52	31.1503
WITH 20 YR. LONG. .4	65438.43	31.4608
WITH 25 YR. LONG. .5	66096.45	31.7771
WITH 30 YR. LONG. .6	66745.43	32.0891

** Master Mechanic/Chief of Apparatus (8460)

** Receives additional 6% per year Special Duty Pay plus \$1900 per year Additional Compensation

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MEMORANDUM OF UNDERSTANDING

CITY OF NIAGARA FALLS
LABOR MANAGEMENT HEALTH CARE COMMITTEE

The City of Niagara Falls Labor Management Health Care Committee was formed in 2004 for the purpose of uniting both Labor and Management in an attempt to reduce the City's health care costs and also to strengthen the health care available to its employees. This committee is comprised of members of the City Administration, the Niagara County Building Trades, the United Steelworkers of America, Local 9434 (Units 00 and 02), the Niagara Falls Fire Department Officers Association, Uniformed Firefighters Local 714, the Niagara Falls Police Captains and Lieutenants Association and the Niagara Falls Police Club. The committee met several times throughout 2004 and into 2005 and created a health care program, which provides comprehensive and improved coverage for all qualified City employees while at the same time providing the City with enhanced financial stability due to the program's lower cost.

The following terms will govern the administration of the City's health care program: 1. Effective November 1, 2005, the City of Niagara Falls will provide all qualified unionized and exempt employees with the Health Care Program contained in Schedule "A". A qualified employee shall be defined as any full time, permanent or provisional employee of the City of Niagara Falls in the exempt managerial class, a full time, permanent or provisional member of one of the recognized member bargaining units of the committee, or an elected official. Temporary employees are not eligible for health care coverage until completion of six (6) consecutive months of full-time employment with the City.

2. The program contained in Schedule A is comprised of Health and Hospitalization. Vision, Dental, Prescription and Chiropractic benefits and is provided

by the City at no cost to qualified employees.

3. Notwithstanding the provisions contained in paragraph 2 above, qualified employees appointed after November 1, 2005 will be responsible for 20% of the monthly premiums for the qualified employee's first year of employment with the City. At the commencement of the qualified employee's second year of employment with the City, the health care program will be provided by the City according to the provisions contained in paragraph "2". Temporary employees must complete six (6) consecutive months of full-time employment prior to being eligible for health care coverage; the temporary employee then will be responsible for the 20% of the premium for one full year once eligible

A). The employee's portion of the premium cost of the health care program will be deducted through the bi-weekly payroll commencing with the employee's first pay period.

4. Any qualified employee who is covered by an alternate health insurance program may elect to opt out of the City health insurance program. Should the employee opt out of the City program, the employee must provide the Department of Human Resources with written proof that he/she is enrolled by the other plan. Written documentation generated by an entity sponsoring the alternate health plan and evidencing the employee's participation in the plan shall constitute sufficient proof of enrollment. Upon verification of this information by the City, the employee shall be entitled to an amount equal to 50% of the yearly cost (either single plan or family plan, depending on which plan the employee qualifies for) of the City program for that employee. This amount shall be paid to the employee through the employee's regular bi-weekly pay in a proportionate amount throughout the year. Any employee covered under the City health insurance program that opts out after January 1st of any calendar year will, upon verification of the comparable health insurance plan, be paid

a pro-rated amount for that year. Any employee who leaves before the end of the calendar year in which he/she is receiving this amount will forfeit any unpaid amount due and owing for the remainder of the year. Qualified employees hired after November 1, 2005 will not be able to opt out of coverage until after completion of one full year of employment with the City.

5. All qualified employees retiring from the City of Niagara Falls, effective November 1, 2005, will have the above mentioned health care plan provided to them at no cost to the retiree, upon the same terms and conditions as those applicable to active employees of the City at the time of retirement. Such benefits shall continue until retiree reaches age sixty-five (65), at such time the City agrees to provide coverage as provided above supplemental to Medicare. All rights of employees who retired prior to July 1, 2005 will not be affected by the terms of this Agreement.

6. Upon ratification of this signed agreement by the Niagara Falls City Council, the terms of this Memorandum of Understanding will be controlling with respect to the administration of health/hospitalization, dental, vision, prescription and chiropractic coverage. Accordingly, all sections of each bargaining unit's collective bargaining agreement with the City of Niagara Falls in conflict with the provision of these benefits to qualified employees as specified herein shall be null and void. A listing of the conflicting sections of the collective bargaining agreements for each bargaining unit is attached hereto as Schedule B. All other terms and conditions of employment contained in the aforementioned collective bargaining units will remain in full force and effect.

7. The City of Niagara Falls Labor Management Health Care Committee shall continue to be comprised of 2 (two) representatives of the Executive Board of each of the member bargaining units, possessing full authority to negotiate on behalf of each member bargaining unit, the Mayor of the City of Niagara Falls, the City

Administrator, Corporation Counsel, the Risk Management Director, and the Human Resources Director or their designees.

8. Through this Memorandum of Understanding, the City and each member bargaining unit confirms its commitment to the City of Niagara Falls Labor Management Health Care Committee. As such, all parties authorize the City of Niagara Falls Labor Management Health Care Committee to act on behalf of each represented entity in the areas of health and hospitalization, dental, vision, prescription and chiropractic coverage, and to negotiate for and contract with health insurance carriers for said benefits (subject to ratification of any Committee proposal by the membership of each member bargaining unit and notwithstanding the provisions of the collective bargaining agreements between each bargaining unit and the City). No single member or represented entity of the City of Niagara Falls Labor Management Health Care Committee will have the power to alter the terms of the City of Niagara Falls Health Care Program without the approval of the Committee. Any change to the City of Niagara Falls Health Care Program must be approved by a 2/3 vote of the City of Niagara Falls Labor Management Health Care Committee.

9. Any dispute arising under this Memorandum of Understanding or with respect to the City of Niagara Falls Health Care Program shall be resolved pursuant to the terms of the grievance procedures contained in the collective bargaining agreements between bargaining unit of the affected employee and the City.

10. This memorandum shall be made part of all the Collective Bargaining Agreements between the City and the labor unions that are members of the Labor-Management Healthcare Committee. However, the labor unions recognize that the term of the contract between the City and the Healthcare Company (ies) may not correspond to the term (or effective dates) of the seven Collective Bargaining Agreements. As such, all parties agree that all matters referenced in this MOA are not

bound by the dates of the CBA's between the member labor unions and the City.

11. Any member group of the Labor-Management Healthcare Committee may opt out from membership in the Committee upon thirty (30) days notice to all other members of the group.

12. Any member of the Labor-Management Healthcare Committee may, upon thirty (30) days written notice to the other members of the Committee, request to re-open negotiations on healthcare. During such negotiations, all other terms of this agreement shall remain in effect until new terms are agreed upon.

Dated: October 21, 2005

FOR THE CITY OF NIAGARA FALLS, NY:

VINCENZO V. ANELLO Mayor

DANIEL BRISTOL City Administrator

FOR THE MEMBER BARGAINING UNITS:

WILLIAM CASO President
Niagara Falls Police Club

RICHARD MAZIKOWSKI (Act) President
Police Captains and Lieutenants Assoc.

JOSEPH PEDULLA, President
Uniformed Firefighters Local 714

GREGORY COLANGELO, President
Fire Department Officers Assoc.

THOMAS VITELLO, Unit Chairman
USWA LOCAL 9434-00

ROY HARVEY, Unit Chairman
USWA LOCAL 9434-02

CLYDE JOHNSON, Business Agent
NIAGARA COUNTY BUILDING TRADES

LEN SAURO Staff Representative
UNITED STEELWORKERS OF AMERICA

BENEFIT

BLUE CROSS/BLUE SHIELD PLAN

OFFICE VISITS	\$10
PEDIATRIC PRIMARY CARE VISITS	COVERED IN FULL
ROUTINE PHYSICALS	\$10.
WELL CHILD VISITS	COVERED IN FULL
DIAGNOSTIC X-RAYS	COVERED IN FULL
LAB TESTING	COVERED IN FULL
CHIROPRACTIC CARE	\$10
MRI .	COVERED IN FULL
SPECIALIST VISITS "	\$10
MATERNITY CARE	COVERED IN FULL AFTER CO-PAY FOR INITIAL VISIT
GYNECOLOGICAL OFFICE VISITS	\$10
MAMMOGRAMS	COVERED IN FULL
PAP SMEARS	COVERED IN FULL
IN PATIENT STAYS	COVERED IN FULL
OUTPATIENT SURGERY FACILITY	COVERED IN FULL
CHEMOTHERAPY, RADIATION THERAPY, INHALATION THERAPY	\$10
CARDIAC REHABILITATION (24 VISITS PER YEAR)	\$10
OCCUPATIONAL, SPEECH, PHYSICAL THERAPY	\$10
EMERGENCY ROOM VISIT (WAIVED IF ADMITTED)	. \$35
EMERGENCY AMBULANCE	COVERED IN FULL
MENTAL HEALTH INPATIENT (30 DAYS PER YEAR)	COVERED IN FULL
MENTAL HEALTH OUTPATIENT (60 VISITS PER YEAR)	\$10
INPATIENT DETOXIFICATION (DETOX ONLY)	COVERED IN FULL
OUTPATIENT SUBSTANCE ABUSE (60 VISITS PER YEAR)	\$10
DIABETIC SUPPLIES AND EQUIPMENT	\$10
DURABLE MEDICAL EQUIPMENT	20% COPAY
HOME HEALTH CARE (IN-NETWORK UNLIMITED VISITS)	\$10

HOSPICE (210 DAYS)	\$10
PROSTHETIC DEVICES	20% COPAY
SKILLED NURSING FACILITY NON CUSTODIAL	COVERED IN FULL (50 DAYS)
PRESCRIPTION DRUGS (NO COPAY FOR GENERIC CONTRACEPTIVES)	\$1/\$5
VISION CARE	
EXAM	\$10
FRAMES	\$0 COPAY (\$100 MAXIMUM)
LENSES	\$0 COPAY
CONTACT LENSES	\$0 COPAY (\$100 MAXIMUM)
DEPENDENT/STUDENT COVERAGE TO AGE	25/25
OUT OF NETWORK	
DEDUCTIBLE	\$250/\$500
COINSURANCE	80% - 20%
OUT OF POCKET MAXIMUM	\$2,000 - \$4,000
LIFETIME MAXIMUM	UNLIMITED

DENTAL BENEFIT PLAN

BENEFIT	IN-NETWORK	OUT-OF-NETWORK
Preventive & Diagnostic Services Including: Exams Cleanings X-rays	100%	100% of In-network Allowance
Basic Services Including: Fillings Periodontics Endodontics Crowns	100%	100% of In-network Allowance
Major Services Including: Bridges Partial & Full Dentures	100%	100% of In-network Allowance
Orthodontia	50%	50% of In-network Allowance

**CITY OF NIAGARA FALLS, NEW YORK AND NIAGARA FALLS FIRE
DEPARTMENT OFFICERS
ASSOCIATION, LOCAL 3359 RANDOM DRUG TESTING POLICY**

A. INTRODUCTION

The City of Niagara Falls, New York (hereinafter, "City") and the Niagara Falls Fire Department Officers Association, Local 3359, (hereinafter, "Local 3359"), hereby agree to the following Random Drug Testing Policy (hereinafter, "Policy"). This Policy may not be amended or otherwise modified except by mutual agreement between the City and the Local 3359.

B. PURPOSE AND SCOPE

The City acknowledges that all employees have a right to exercise private judgment in matters relating to their personal lives. However, preventing the use of illegal drugs or the improper use of legal drugs by City Fire Department employees is considered essential to the effectiveness of the Fire Department and to the safety of its members and the community. This Policy seeks to promote the health, safety and welfare of City Fire Department employees and to enhance the safety of members of the general community. It also seeks to identify problems with illegal drugs or the improper use of legal drugs if they exist and to provide assistance and treatment through an Employee Assistance Program to Fire Department employees that may experience such problems.

The City further acknowledges that, this Policy is being implemented only as a preventative measure and not in response to any existing problems with drug use by City Fire Department employees.

All Fire Department employees represented by the Local 3359 are subject to and expected to comply with this Policy.

C. DEFINITIONS

For the purpose of interpreting and administering this Policy, the following terms or phrases are defined to mean:

1. **Illegal Drug:** means any drug that is not legally obtainable.
2. **Legal Drug:** means any prescribed drug or over-the-counter drug that has been legally obtained.
3. **Drug Testing:** means the scientific analysis of urine for the purpose of detecting: (1) the presence of an illegal drug or (2) a legal drug not legally obtained or being used for a purpose other than that for which it was prescribed or manufactured. Drugs that will be tested for under this Policy include, but are not limited to, amphetamines, barbiturates, benzodiazepines, cocaine metabolite, opiates, marijuana, phencyclidine, methadone, methaqualone and propoxyphene.

**CITY OF NIAGARA FALLS, NEW YORK AND NIAGARA FALLS FIRE
DEPARTMENT OFFICERS
ASSOCIATION, LOCAL 3359 RANDOM DRUG TESTING POLICY**

4. Prohibited Drug Use: means a condition in which a Fire Department Employee is using an illegal drug or using a legal drug not legally obtained or being used for a purpose other than that for which it was prescribed or manufactured.

5. Chain of Custody: means mandated procedures to account for the integrity of each urine specimen by tracking its handling and storage from the point of collection to its final testing and disposition.

6. Neutral Testing Process: means that none of the personnel involved in the collection, testing of the urine sample or reporting the results have had any personal or professional contact with the Employee being tested that might give rise to even the appearance of personal bias against the Employee.

D. POLICY STATEMENT

No Employee is permitted to engage in any prohibited drug use as defined in this Policy. Employees who believe that they may have a problem with prohibited drug use are encouraged to seek professional help through the Employee Assistance Program (hereinafter, "EAP") established by this Policy without waiting to be identified through the random testing program. Help voluntarily sought in this manner will be treated as strictly private and confidential.

Employees taking prescribed drugs or using over-the-counter medication that have any doubt about their ability to perform their duties should consult with their doctor and, if necessary, discuss alternative work options with their supervisor. However, under no circumstances will the legal use of legally obtained drugs be considered a violation of this Policy.

E. AVAILABILITY OF HELP AND FINANCIAL ASSISTANCE

There are a wide range of professional support programs available for individuals experiencing drug related problems and the City is committed to providing all reasonable rehabilitation support through these channels for Fire Department employees subject to this Policy.

Any Employee wishing to avail himself/herself of professional support should approach the City's EAP Coordinator.

The type of rehabilitation offered by EAP will include but not be limited to:

- 1. Assessment of current personal situation and future needs;**
- 2. Referral to inpatient or outpatient center;**
- 3. After care and relapse prevention counseling;**
- 4. Introduction to support groups.**

**CITY OF NIAGARA FALLS, NEW YORK AND NIAGARA FALLS FIRE
DEPARTMENT OFFICERS
ASSOCIATION, LOCAL 3359 RANDOM DRUG TESTING POLICY**

F. AMNESTY

The City recognizes that employees may be reluctant to admit they have a problem with prohibited drug use and seek help for such problem for fear of the possibility that adverse employment action will be taken against them. However, the City also recognizes that it is in the interests of the community, the Fire Department and its members to take all reasonable steps to rehabilitate employees experiencing problems with prohibited drug use. Accordingly, under the terms of this Policy, no adverse employment action will be initiated by the City against any Employee who, prior to testing positive in a random drug test, voluntarily seeks assistance from the EAP for problems with prohibited drug use.

The Employee will comply with the EAP Procedure set forth in Section H below.

Fire Department Employees who choose not to voluntarily seek help and who subsequently test positive for prohibited drug use when subjected to a random drug test will be subject to the following procedure.

G. EMPLOYEES WHO TEST POSITIVE FOR PROHIBITED DRUGS

In the event of a positive test result, the testing facility will send a Confidential Report to the City's Director of Human Resources and the President of the Local 3359 containing the following information:

1. Documentation that the testing facility is certified and/or licensed by the SAMHSA and NYSDOH or otherwise as required by applicable law.
2. Documentation that all personnel involved in the collection, testing of the urine sample and/or reporting of the results are properly licensed and certified as required by this Policy and applicable law.
3. Documentation verifying proper chain of custody and testing procedures as defined herein and as required by applicable law.
4. Documentation showing the testing conducted and the results thereof.
5. Any other information required by applicable law to be included in a drug testing litigation report.

An Employee whose drug test is reported positive will be offered the opportunity to:

1. Obtain and independently test, at the employee's expense, the remaining portion of the urine specimen that yielded the positive result, and
2. Obtain the written test result and submit it to an independent medical review at the employee's expense.

The Employee may use the City's medical benefits, to the extent that coverage may apply, for meeting the costs of (1) and (2).

**CITY OF NIAGARA FALLS, NEW YORK AND NIAGARA FALLS FIRE
DEPARTMENT OFFICERS
ASSOCIATION, LOCAL 3359 RANDOM DRUG TESTING POLICY**

If the Employee questions the results of the test, upon receipt of the lab report and the results of any independent test conducted, the affected Employee, the President of the Local 3359 and the City's Director of Human Resources will meet to review the matter. The purpose of the meeting will be to determine whether there was a valid positive test or whether the positive finding could have resulted from some cause other than prohibited drug use.

At this meeting, the President of the Local 3359, the City's Director of Human Resources and the affected Employee will attempt to resolve the matter informally. If they cannot resolve the matter informally, the affected Employee may elect to pursue the EAP Procedure set forth in Section H below. If the Employee elects to pursue this EAP procedure, the City agrees not to commence a proceeding under Section 72 or Section 75 of the New York State Civil Service Law provided the Employee complies with the requirements of the procedure. If the Employee elects not to pursue this EAP procedure, the City may commence a proceeding under Section 72 or Section 75 of the New York State Civil Service Law as it deems appropriate.

Should the Employee fail to comply with the requirements of the EAP Procedure or test positive again after successfully completing that procedure, the City will not be foreclosed from commencing a proceeding under Section 72 or Section 75 of the New York State Civil Service Law as it deems appropriate.

H. EAP PROCEDURE:

1. The Employee will enter the rehabilitation program recommended by the EAP Program. Coordinator provided for under this Policy.
2. If determined to be necessary by the rehabilitation program, the Employee will be placed on a medical or FMLA (if eligible) leave of absence. The- Employee will remain on medical leave until released by the rehabilitation program to return to work.
3. During the period of the medical leave of absence, the employee will be permitted but not required to use accumulated personal leave, sick leave and vacation time. If such time is used and exhausted, the Employee will not receive further payment from the City until the employee returns to work except as otherwise may be required by the collective bargaining agreement and/or applicable law.
4. All benefits will be administered in accordance with the City's current leave policy to the extent not inconsistent with the collective bargaining agreement and/or applicable law.
5. The employee must comply with all EAP requirements and regularly attend and meaningfully participate in all scheduled EAP appointments.

**CITY OF NIAGARA FALLS, NEW YORK AND NIAGARA FALLS FIRE
DEPARTMENT OFFICERS
ASSOCIATION, LOCAL 3359 RANDOM DRUG TESTING POLICY**

6. The employee will sign any and all releases required by the rehabilitation program. The employee will also sign any and all releases necessary so that the City of Niagara Falls may monitor treatment progress but the only information provided will relate to compliance issues. Specific details relating to personal counseling, advice and treatment will not be disclosed.

7. The employee is responsible for any and all out of pocket costs associated with rehabilitation not covered by the employee's health insurance through the City of Niagara Falls.

Upon return from leave, any appointment relative to rehabilitation should be scheduled after work hours, as practicable. Any appointment that is scheduled during regular work must be preapproved by the Department Head and the employee will be required to use their own accumulated time for such appointments.

Upon successful completion of the EAP Procedure, the Employee will be subject to testing at anytime for a period of six months.

I. A POSITIVE DRUG TEST RESULT

The determination that an Employee is engaging in prohibited drug use can be established only by a competent professional opinion based upon a scientifically valid test (including both an appropriate screening and confirmation test) conducted by a SAMHSA and NYSDOH certified laboratory with properly licensed and certified personnel. The positive drug test result must meet the requirements of a "Neutral Testing Process" as that phrase is defined herein. If either the laboratory and/or personnel are not properly certified or the test does not meet the requirements for a neutral testing process as defined herein, the test results are invalid, may not be used in any way by the City and must be deleted from the employee's record.

Where a test result is positive, the testing process must include an evaluation by testing facility personnel as to whether that positive result may be explained by any factors or circumstances other than prohibited drug use as defined in this Policy. Where a test is positive but it is ultimately determined that the Employee was not engaging in prohibited drug use as defined in this Policy, the result will be recorded as negative test for the purpose of administering this Policy.

J. RANDOM DRUG TESTING

This Random Drug Testing Policy requires any Fire Department Employee who is on duty and who is selected for testing in accordance with the provisions of this Policy to provide a sample of their urine for the purpose of testing for the presence of prohibited drugs.

**CITY OF NIAGARA FALLS, NEW YORK AND NIAGARA FALLS FIRE
DEPARTMENT OFFICERS
ASSOCIATION, LOCAL 3359 RANDOM DRUG TESTING POLICY**

Random drug testing may be conducted on a 24 hour, seven day a week basis. However, employees will only be asked to submit to a test while on duty. Employees to be tested will be randomly chosen using a computer program to generate a random list of employee numbers. Employees will be identified by employee number only and not by name. Collection will take place at a location chosen by the City. The City may conduct up to four (4) tests per year and may test up to 20% of bargaining unit members during each test.

The Local 3359 President or his/her designee will be notified of the demand for a random drug test at the same time that the affected Employee is notified.

The City is responsible for all the costs associated with such testing and the Employee will be paid his/her normal pay and benefits for any time spent conducting the test or traveling to or from the site of the test.

K. REFUSAL

Subject to the provisions of Section 75 of the New York State Civil Service Law, a refusal to submit to a random drug test may lead to disciplinary action by the City up to and including termination of employment. In addition to an outright refusal, other behaviors that may be considered a refusal include:

1. Leaving the test site without completing the test;
2. Attempting to adulterate the specimen or collection procedure, and
3. Not reporting to the collection site in the time allotted unless the Employee was unable to report in the time allotted due to circumstances beyond his or her control.

L. CONFIDENTIALITY GUARANTEE

All information concerning the implementation and/or administration of this Policy will be protected by the City as confidential unless authorized in writing by the affected Employee or as may otherwise be required by law. Confidentiality will be maintained by limiting access of the test results to the program administrator and the medical review Employee via secure Internet connection. The City is responsible to maintain the confidentiality of all drug testing results whether stored in a conventional format on paper or in electronic format.

All referrals to EAP will be treated in strict accordance with the confidentiality provisions of this Policy and applicable law. EAP Counselors will not disclose information about employees without their express consent, except in cases where disclosure is required by law. In such cases, the only information provided will relate to compliance issues. Specific details relating to personal counseling, advice and treatment will not be disclosed.

**CITY OF NIAGARA FALLS, NEW YORK AND NIAGARA FALLS FIRE
DEPARTMENT OFFICERS
ASSOCIATION, LOCAL 3359 RANDOM DRUG TESTING POLICY**

M. TRAINING

Upon the implementation of this Policy, the City will provide in-service training to all employees subject to this policy concerning the implementation and administration of this policy.

2004 - 2007 Contractual Agreement

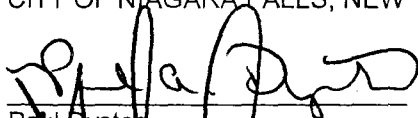
-between-

The City of Niagara Falls, New York

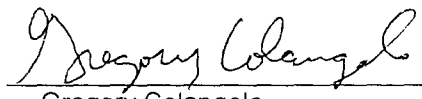
-and-

Niagara Falls Fire Department Officers Association, Local 3359


CITY OF NIAGARA FALLS, NEW YORK FIRE OFFICERS ASSOCIATION




Paul Dyster
Mayor



Gregory Colangelo
President

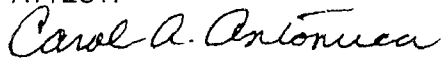


William Bradberry
City Administrator



Thomas O'Donnell
Acting Corporation Counsel

ATTEST:



Carol Antonucci
City Clerk