

8-29-13

# **AGREEMENT**

**between**

**The City of Oneonta**

**and the**

**Oneonta Professional  
Firefighters**

**LOCAL 2408, IAFF**

**January 1, 2012 – December 31, 2015**

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**ARTICLE I**

**TERM OF AGREEMENT**

This Agreement shall be effective as of January 1, 2012, and shall continue in full force and effect to and through December 31, 2015.

**ARTICLE II**

**RECOGNITION**

**SECTION 1.**

The City of Oneonta, New York, hereinafter referred to as the **EMPLOYER** recognizes Local #2408, International Association of Firefighters, hereinafter referred to as the **LOCAL** as the sole and exclusive representative of those **EMPLOYEES** in the Oneonta Fire Department for the purpose of collective negotiations concerning salaries, wages, hours of work, and other terms and conditions of employment serving in positions in the Oneonta Fire Department for the length of this Agreement, subject to the normal challenge period. The terms **EMPLOYEE** or **EMPLOYEES** shall include all full time paid Professional Firefighters and Captains of the Oneonta Fire Department.

**SECTION 2.**

The parties hereto agree that there will not be and that the **LOCAL**, its officers, members, agents, or principals will not engage in, encourage, sanction, or suggest, strikes, slowdowns, mass resignations, or similar action which would involve suspension of or interference with the normal work performance.

The **EMPLOYER** shall have the right to discipline or discharge any **EMPLOYEE** encouraging, suggesting, fomenting, or participating in a strike, slowdown, or other such interference, according to Civil Service Law.

**ARTICLE III**

**NON DISCRIMINATION**

**SECTION 1.**

The **EMPLOYER AND THE LOCAL** agree that the provisions of this Agreement shall be applied equally to all **EMPLOYEES** in compliance with applicable laws against discrimination as to age, race, creed, color, national origin, sex, sexual orientation, disability, marital status, political affiliation and any other class protected by law.

**SECTION 2.**

The **EMPLOYER AND THE LOCAL** agree not to interfere with the rights of the **EMPLOYEES** to become members of the **LOCAL**. There shall be no discrimination, interfering, restraint or coercion by the **EMPLOYER** or any **EMPLOYER** representative against any **EMPLOYEE** because of **LOCAL** membership or because of any **EMPLOYEE** activity permissible under the Taylor Law and this Agreement in an official capacity on behalf of the **LOCAL**, or for any other cause.

**SECTION 3.**

The **LOCAL** recognizes its responsibility as bargaining agent and agrees to represent all **EMPLOYEES** in the bargaining unit without discrimination, interference, restraint or coercion.

**ARTICLE IV**

**DUES CHECKOFF AND INDEMNIFICATION**

**SECTION 1.**

Upon receipt of proper written authorization, the City of Oneonta shall deduct **LOCAL** dues, on a pro-rata basis and shall remit monies collected to the Oneonta Professional Firefighters, P.O. Box 3, Oneonta, New York 13820. The **LOCAL** agrees to indemnify and hold

harmless the City of Oneonta from any causes of action, claim, loss, or damages incurred as a result of this clause.

All deductions under this Article shall be subject to revocation under Section 93-b of the General Municipal Law, as amended, by the **EMPLOYEES** who executed such assignments, upon giving written notice to that effect. Such notice shall be given to the **LOCAL** and the Director of Finance. The Director of Finance shall thereafter cease withholding any monies whatever under checkoff authorization.

Assignees shall have no right or interest whatsoever in any money authorizedly withheld until such money is actually paid over to them. The City of Oneonta or any of its officers and **EMPLOYEES** shall not be liable for any delay in carrying out such deduction, and upon forwarding a check in payment of such deductions by mail to the assignees last known address. The City of Oneonta and its officers and **EMPLOYEES** shall be released from all liability to the **EMPLOYEE**-assignors and to the assignees under such assignments.

## **SECTION 2.**

The **EMPLOYER** agrees to deposit any and all deductions into the **LOCAL'S** checking account no later than three (3) City of Oneonta business days following the end of the payroll date.

## **ARTICLE V**

### **LOCAL RIGHTS**

## **SECTION 1.**

It is agreed by both parties that **EMPLOYEES**, who are designated or elected by the **LOCAL** for the purpose of negotiating, processing grievances, resolving disputes, or who are appointed to the Labor Management Committee, or who are assisting in the administration of

this Agreement, will be permitted a reasonable amount of time, free from their regular duties, to fulfill these obligations without loss of pay or any other privileges. Further, it is agreed that those **EMPLOYEES** who are designated or elected by the **LOCAL** will be permitted to conduct Union Related Business during the course of their regularly scheduled shift, including normal business hours provided that this time off is not in conflict with assigned duties and upon permission of the Fire Chief or his designee; such permission shall not be unreasonably withheld.

### **SECTION 2.**

It is agreed by both parties that **EMPLOYEES**, who are designated or elected by the **LOCAL** to represent its members, will have the right to attend district meetings, legislative conferences, conventions, seminars or any other Union related functions without loss of time, money or privileges, to a maximum of eighty (80) hours per year. Notification of such meetings, conferences, etc., including the date and time, will be given, in writing, to the Fire Chief within a reasonable time prior to the event. Approval of the Fire Chief is required. Such approval shall not be unreasonably withheld, and reasonable efforts shall be made to accommodate the request.

For purposes of calculating the eighty (80) hours per year, it is agreed that time spent on negotiations, processing grievances, resolving disputes, labor management committee matters, or assisting in the administration of this Agreement, as set forth in Section 1 above, shall not be included in the eighty (80) hours herein.

### **SECTION 3.**

The **EMPLOYER** will place and maintain a suitable bulletin board in a convenient location in the Fire Station for the exclusive use of the **LOCAL**. The **LOCAL** will be allowed to post notices and other materials of general interest to its members.

**SECTION 4.**

The **EMPLOYER** agrees to allow the **LOCAL** the rights to hold regular and special meetings in order to conduct **LOCAL** business on City property.

**SECTION 5.**

The **EMPLOYER AND THE LOCAL** agree that within seven (7) days after written request by either party, the Mayor, Fire Chief, and City Council members (or a majority of), shall meet with designated representatives of the **LOCAL** at a mutually agreed upon time in an effort to discuss relevant problems of concern to **LOCAL** members.

**SECTION 6.**

(A) The **EMPLOYER** shall notify the **LOCAL** at least thirty (30) days in advance, in writing, of any changes in working methods or conditions not covered by this Agreement, except when such change is required because of emergency or major disaster over which the **EMPLOYER** has no control.

(B) It is agreed by both parties that in the event the **EMPLOYER** deems it necessary to execute a transfer of an **EMPLOYEE** to a different crew, the **EMPLOYEE** will have the right to use the hours of vacation time that the **EMPLOYEE** had scheduled on the previous crew (this will not affect **EMPLOYEES** previously approved for that crew)

**SECTION 7.**

It is agreed by both parties that the **EMPLOYER** will notify the **EMPLOYEE**, at least seven (7) calendar days in advance of any Captain meetings, classes, drills or any other event scheduled by the **EMPLOYER** that requires the presence of the **EMPLOYEE**, except in emergency situations. Posting in the station is sufficient, if the **EMPLOYEE** worked after the

posting and prior to seven (7) calendar days of the event. If an **EMPLOYEE** is on vacation, there is not a requirement that he/she attend the event.

## **ARTICLE VI**

### **RIGHTS OF THE EMPLOYER**

Except as otherwise specifically provided in this Agreement, the **EMPLOYER** shall have the customary and usual rights, powers, and functions to direct the **EMPLOYEES**, to hire, promote, suspend and to take disciplinary action, and to otherwise take whatever actions are necessary to carry out the mission of the **EMPLOYER** pursuant to existing practices unless altered by this Agreement.

## **ARTICLE VII**

### **PERSONNEL FILE**

#### **SECTION 1.**

All **EMPLOYEES** covered by the Agreement shall be allowed to view and make copies of any and all items in said **EMPLOYEE'S** personnel file during normal business hours, unless in the case of an emergency. The official **EMPLOYEE** file shall be maintained by the personnel office.

#### **SECTION 2.**

An **EMPLOYEE'S** official personnel history folder shall contain copies of personnel transactions, official correspondence with the **EMPLOYEE**, written performance ratings or appraisals concerning the **EMPLOYEE**, personnel payroll forms completed by the **EMPLOYEE** when hired (for example: W-4 Retirement application, beneficiary designation, etc.) except for routine personnel transactions and letters of recommendations obtained in connection with the **EMPLOYEE'S** initial employment, a copy of any document placed in the

**EMPLOYEE'S** history folder shall be sent or given to the **EMPLOYEE** at the time of such placement.

**SECTION 3.**

During any review of his or her personnel history folder an **EMPLOYEE** may examine the entire content of such folder; provided, however, he/she may not review letters of recommendation obtained in connection with his or her initial employment by the City of Oneonta.

An **EMPLOYEE** shall have the opportunity to place in his or her personnel history folder a written response of reasonable length to anything contained therein which is available to his/her review under the terms of this Article and which he or she deems to be adverse. Such written response shall be attached to the document to which it pertains.

**ARTICLE VIII**

**GRIEVANCE PROCEDURE**

**SECTION 1. Definition of Grievance**

A Grievance shall mean any claimed violation, misinterpretation, or inequitable application of the work rules of the Department or of this Agreement. A grievance shall also include any claimed violation, misinterpretation, or inequitable application of written rules, procedures, regulations or administrative orders which relate to or involve the health or safety of a member of the bargaining unit.

**SECTION 2. Submission of Grievances .**

a. Any grievance that is not filed within thirty (30) calendar days of the date of occurrence shall be considered settled.

b. All grievances and settlements shall be in writing with copies to all parties concerned. The grievance shall identify the aggrieved party, the provision of the Agreement, rule or procedure alleged to be violated, the date of the occurrence and a description of the event and the remedy sought by the aggrieved party.

**SECTION 3. Grievance Steps.**

Step 1. The LOCAL shall submit grievances to the Fire Chief. The Fire Chief shall convene a conference with the LOCAL within five (5) calendar days of receipt of the grievance. The Fire Chief will render a decision in writing within five (5) calendar days of the conference.

Step 2. If the LOCAL is not satisfied with the decision of the Fire Chief, the LOCAL may, within ten (10) days after receipt of the Fire Chief's decision, submit the grievance to the Mayor or his/her designee for adjustment. The LOCAL may also bring forward a grievance to the Mayor or his/her designee if ten (10) calendar days have elapsed since the grievance was submitted to the Fire Chief and no decision has been rendered. The submission to the Mayor shall include, but is not limited to, a summary of the grievance and a statement as to why the determination at Step I is not satisfactory. The Mayor or his/her designee shall meet with the LOCAL within five (5) calendar days of receipt of the grievance. The Mayor or his/her designee will render a decision in writing within five (5) calendar days of the meeting.

If the City is the aggrieved, it will submit its grievance at Step II to the LOCAL president for adjustment. The Local President shall convene a conference with the City within five (5) calendar days of receipt of the grievance. The Local President will render a decision in writing within five (5) calendar days of the conference.

Step III. If the LOCAL is not satisfied with the response or determination issued by the Mayor or his/her designee at Step II, or if no response or determination is received after ten (10) calendar days of submission to Step II, the LOCAL may submit the grievance to the Common Council for adjustment. The Common Council shall consider the grievance at the first Council meeting after receipt of the grievance and thereafter issue a determination within a reasonable period of time but no later than thirty (30) calendar days after the date the grievance was submitted to the Council.

Step IV. If the Local is not satisfied with the response or determination issued at Step III, or if no response or determination is received after ten (10) calendar days of submission to Step III, the LOCAL may submit the grievance to binding arbitration pursuant to the Rules and Procedures of the Public Employment Relations Board. The LOCAL shall file the Demand for Arbitration no later than thirty (30) calendar days after the grievance has been submitted at Step III.

If the City is the aggrieved and not satisfied with the Step II decision of the Local President, the City may submit the grievance to binding arbitration as noted above no later than thirty (30) calendar days after receiving the decision from the Local President.

#### **SECTION 4. Arbitration .**

The aggrieved may file a Demand for arbitration in accordance with Step III of the above with the Public Employment Relations Board. The parties shall select an arbitrator to hear and determine the dispute in accordance with the Rules and Procedures of the Public Employment Relations Board. The cost of the arbitration proceeding (arbitrator's fee) shall be borne equally by both parties. The arbitrator shall strictly construe all of the provisions of this Agreement and shall have no power to alter, add to or detract from the provisions of the Agreement. The

arbitrator will be without power or authority to make any decision which requires the commission of any act prohibited by law or which is in violation of the terms of this Agreement.

## **ARTICLE IX**

### **SALARY PLAN AND SCHEDULE**

#### **SECTION 1.**

For the bargaining unit position of Captain, the base wage and longevity schedule is annexed hereto as Attachment D-1.

#### **SECTION 2.**

For the bargaining unit position of Firefighter, the base wage and longevity schedule is annexed hereto as Attachment D-2.

#### **SECTION 3.**

If an **EMPLOYEE'S** anniversary date is prior to July 1st, they will receive their next longevity step on January 1st. If the **EMPLOYEE'S** anniversary date is July 1st, or after, they will receive their next step the following January. The longevity step shall not be construed as maximum of the grade.

#### **SECTION 4. EDUCATIONAL INCENTIVES**

Effective January 1, 2012, the following incentives will be paid.

A. Any Firefighter who certifies for EMT-D (Emergency Medical Technician), the sum of \$0.28 per hour over and above base compensation. This sum will be added to base compensation for the purpose of computing the overtime rate.

B. Any Firefighter hired before January 1, 2012 who certifies for AMTCC or AEMTP, the sum of \$1.37 per hour over and above base compensation, which sum will be added to base compensation for the purpose of computing the overtime rate.

C. Effective January 1, 2008, any member of the bargaining unit who becomes ALS certified (AEMTCC or AEMTP) for the first time shall receive a one time lump sum stipend in the amount of one thousand five hundred dollars (\$1,500.00). Firefighter Hitchcock shall receive a one time lump sum stipend in the amount of three thousand dollars (\$3,000.00) upon ALS certification.

D. **EMPLOYEES** shall take courses on their own time or release time (pursuant to past practice). The City will pay the cost of tuition and books necessary for any level of certification or recertification. It shall be the responsibility of the **EMPLOYEE** to notify the Fire Chief, on an annual basis, of certification and/or recertification in the categories included in this article in order to qualify for payment.

E. Effective January 1, 2008, the **EMPLOYER** will reimburse the **EMPLOYEE** up to \$360.00 per course of tuition costs, for approved college courses, up to a maximum of \$720.00 per academic year. The **EMPLOYEE** must obtain at least a passing average in order to be eligible for this reimbursement.

#### **SECTION 5. CONDITIONS OF EMPLOYMENT**

A. Effective January 1, 2001, all **EMPLOYEES** in the Bargaining Unit shall be required to be certified as an EMT-D. Effective January 1, 2002, all **EMPLOYEES** in the Bargaining Unit shall possess a valid certification in the NYS Fire Prevention and Control Emergency Vehicle Operator and AAA Driver's Improvement Courses. **EMPLOYEES** who are unable to be certified as an EMT-D or in the two driving courses because of an illness or injury may apply for an exemption from this section. If granted, the **EMPLOYEE** will be granted a reasonable amount of time after the illness or injury ends to be certified. If not granted, the **EMPLOYEE** may immediately file for arbitration concerning the denial of an exemption.

B. All employees hired after January 1, 2012 shall be required to attain AEMTCC or AEMTP certification within four (4) years of the date of hire. The City will pay tuition and material (book) fees. The City will provide the travel car when available, otherwise travel orders and mileage reimbursement will be provided. Upon attaining such certification, such employee shall receive a one time lump sum stipend in the amount of \$1,500. Such employees who fail to attain such certification, or who fail to maintain such certification are subject to dismissal without the protection of Section 75 of the Civil Service Law. An employee shall not be subject to dismissal if the City fails to enroll the employee in an ALS course, fails to allow the employee to complete a course within the aforementioned time constraints or if the employee has been enrolled by the City within the last two (2) years and the course will be completed after the expiration of the initial four (4) year period. If an employee fails the AEMTCC or AEMTP exam, the employee must pass the next available test at his/her own expense. If an AEMTCC course is not available for the first two (2) of the employee's four (4) years, the employee will be enrolled in an AEMTP or AEMTCC course at the City's discretion.

Such employees shall not be entitled to overtime pay for training/classes in order to attain initial certification. For recertification, employees will be expected to attend in-house training during their regular shift and attend local classes during the shift. For recertification, overtime will be paid for time spent off regular shift to attain recertification.

**ARTICLE X**

**OVERTIME PAY**

**SECTION 1.**

**Overtime Pay** — EMPLOYEES covered by this agreement who are required to work at any time other than their regular schedule as set forth in Article XIX, shall be paid for such time at the rate of 1 ½ times their regular hourly rate.

**SECTION 2.**

**Call Back Pay** — All EMPLOYEES covered by the terms of this Agreement who are called back to work from any off-duty time shall be paid at least two (2) hours minimum pay at one and one-half (1 ½) times the basic rate of pay, provided that the EMPLOYEE reports within twenty-five (25) minutes of receiving the request to report to duty. Any EMPLOYEE who reports after twenty-five (25) minutes will be paid for actual hours worked at one and one-half (1 ½) times the basic rate of pay. Extreme weather conditions will void this policy.

**ARTICLE XI**

**REPLACEMENT ALLOWANCE**

The EMPLOYER agrees to pay for the following damaged personal property of the EMPLOYEE, sustained in the course of his duties:

Watches — repair or replace up to fifty dollars (\$50.00).

## ARTICLE XII

### HEALTH INSURANCE COVERAGE

#### SECTION 1.

The employer shall provide to all members of the bargaining unit the Excellus Blue Cross/Blue Shield PPO. The City will not unilaterally change the Health Plan without agreement from the Local.

Effective January 1, 2009, the office visit charge shall be \$20.00/office visit. Effective January 1, 2010, the prescription drug rider shall be a \$10/\$25/\$40 including MAC, as well as a mail order program for maintenance drugs.

Co-payments are subject to the approval of the plan carrier.

#### SECTION 2.

Effective January 1, 2010, all **EMPLOYEES** shall pay a portion of health insurance equal to 10% of the full stated premium for the plan in which they are enrolled. Contributions towards monthly premiums shall occur by payroll deduction from the first two paychecks of each month.

Effective January 1, 2015, the employees' portion of the health premium shall increase to 12% of the plan in which they are enrolled.

#### SECTION 3.

On or about July 1, 2004, the employer shall provide a dental plan known as the Excellus Prime Blue Dental, Class 1 and Class 2. The employer shall pay the full cost of premium for individual coverage and fifty percent (50%) of the difference between the cost of individual coverage, two-person coverage, or family coverage.

#### **SECTION 4.**

The **EMPLOYER** agrees to pay eligible **EMPLOYEES** (including those who have coverage in effect on December 1<sup>st</sup> or who have received the waiver for the past twelve [12] months) payment of \$750.00 for an individual contract or \$1,000.00 for a two person contract or \$1,500.00 for a family contract every year to drop their health insurance. For purposes of this section, eligible employee does not include an employee who is receiving, or will receive, health insurance paid for by the City of Oneonta through an employee or retiree of the City of Oneonta. If the **EMPLOYEE** wishes to rejoin the plan within the year, that **EMPLOYEE** must pay the premium until the \$750.00 or \$1,000.00 or \$1,500.00 is paid back. The **EMPLOYER** agrees to allow any **EMPLOYEE** back into the plan after one (1) year (re-entry dates as mandated by the insurance company). The **EMPLOYER** agrees that this provision shall not cause a loss of health insurance coverage for the **EMPLOYEE** unless the **EMPLOYEE** fails to proceed timely to re-enter such plan. It is agreed that the options available under this Article XII, Section 4 may only be elected by the individual **EMPLOYEE**.

#### **SECTION 5.**

(A). All **EMPLOYEES** whose full-time hire date was before **January 1, 2005**, shall be provided health insurance as a post-employment benefit for themselves and their eligible dependents subject to the following:

1. The **EMPLOYEE** was a full-time paid **EMPLOYEE** of the City of Oneonta for a minimum of twenty years, and retired directly from the City from a N.Y.S. Policemen's and Firemen's Retirement System Plan, or

2. The **EMPLOYEE** directly received a N.Y.S. Policemen's and Firemen's Retirement System accidental or performance of duty disability retirement while employed by the City.

3. If the retiree obtains employment, and as a result of that employment the retiree is eligible for health insurance coverage, the retiree is requested to notify the City to discuss possible buy-out options.

4. If the retiree's spouse has access to health insurance coverage for the retiree, the retiree is requested to notify the City to discuss possible buy-out options.

5. The retiree (both service and disability) shall contribute toward health insurance premiums at the same rate of contribution in effect as of their date of retirement.

6. Upon the death of a retiree, the City shall continue to provide the spouse and eligible dependents coverage subject to the rate of contribution in effect for the retiree at the time of death for a period of one year, and, thereafter subject to a contribution by the survivor(s) that equals 100% of the total premium.

7. A retiree shall be allowed to re-enter the City's group health insurance program, contingent upon approval by the insurance company, subject to the applicable rate of contribution for the retiree as determined by paragraph 5 above, if for any reason he/she had chosen not to participate.

(B). All **EMPLOYEES** whose full-time hire date was on or after January 1, 2005, shall be provided health insurance as a post-employment benefit for themselves and their eligible dependents subject to the following:

1. The **EMPLOYEE** was a full-time paid **EMPLOYEE** of the City of Oneonta for a minimum of twenty years, and retired directly from the City from a N.Y.S. Policemen's and Firemen's Retirement System Plan, or.

2. The **EMPLOYEE** directly received a N.Y.S. Policemen's and Firemen's Retirement System accidental or performance of duty disability retirement while employed by the City.

3. If the retiree obtains employment, and as a result of that employment the retiree is eligible for health insurance coverage, the City shall not provide any coverage, provided the retiree can reenter the City's plan at a later date.

4. If the retiree's spouse has access to health insurance coverage for the retiree, the City shall not provide any coverage, provided the retiree can reenter the City's plan at a later date.

5. A retiree who is impacted by either paragraph 3 or 4 who is not yet Medicare eligible shall be allowed to re-enter the City's health insurance program if the circumstances which caused paragraphs 3 or 4 to apply are no longer present.

6. Upon the attainment of Medicare-eligibility by either the retiree or the spouse, the City shall continue to provide coverage for the pre-Medicare-eligible person subject to the applicable rate of contribution for the retiree, as determined by paragraph 8 or 9 below, and for the post Medicare-eligible person subject to a 100% of premium contribution by the individual.

7. If the death of a retiree occurs prior to attaining Medicare-eligibility, the City will provide coverage to the retiree's spouse and eligible dependents subject to the rate of contribution for the retiree at the time of death for a period of one year, and, thereafter subject to

a contribution by the survivor(s) that equals 100% of the total premium. Upon the spouse attaining Medicare eligibility, the City will provide coverage subject to a 100% of premium contribution from the spouse.

8. A retiree (service, accidental, or performance of duty) with twenty years of service or more to the City shall contribute toward health care insurance premiums as follows:

<u>Years of Full-time Paid Service to the City</u>	<u>City's Premium %</u>	<u>Retiree's Premium %</u>
20	80%	20%
25	85%	15%
30	88%	12%

9. All **EMPLOYEES** who receive a N.Y.S. Policemen's and Firemen's Retirement System accidental or performance of duty disability retirement while employed by the City who have less than twenty years of service to the City, shall contribute toward health care insurance premiums at the same rate of contribution the **EMPLOYEE** was contributing on the effective date of the disability retirement or at the rate set forth in paragraph 8 for a retiree with 20 years of service, whichever is greater. If the **EMPLOYEE** is also receiving supplemental wage payments pursuant to Section 207-a(2) of the General Municipal Law, the **EMPLOYEE** will also be subject to any rate changes in premium contribution which are applicable to active firefighters as such changes are negotiated from time to time in the collective bargaining process.

10. A retiree shall be allowed to re-enter the City's group health insurance program, contingent upon approval by the insurance company, subject to the applicable rate of contribution for the retiree, as determined by paragraph 8 and 9 above, if for any reason he/she had chosen not to participate.

## ARTICLE XIII

### OCCUPATIONAL SAFETY AND HEALTH PROGRAM

The **EMPLOYER AND THE LOCAL** will endeavor to maintain a high level of safety for all personnel.

#### SECTION 1.

All personnel turnout equipment will meet New York State adopted OSHA standards and conform with all New York State statutes, regulations, and standards.

#### SECTION 2.

The Fire chief shall have full authority in matters of safety, health, and sanitation affecting members in the department. Further, he/she shall consider suggestions and recommendations pertaining to the training, work limitations and professional personnel as may from time to time be presented by the **EMPLOYEES** of the **LOCAL**.

## ARTICLE XIV

### VACATIONS

#### SECTION 1.

**EMPLOYEES** shall be credited with vacation leave on their anniversary date as follows:

- a) After the completion of years of service one (1) through six (6) – eighty (80) hours per year.
- b) After the completion of years of service seven (7) through fourteen (14) – one hundred twenty (120) hours per year.
- c) After the completion of fifteen (15) years of service, and thereafter – one hundred sixty (160) hours per year.

**SECTION 2.**

**EMPLOYEES** who have completed six (6) months of service shall be permitted forty (40) hours of time off for accumulated vacation in advance of their first year of service.

**SECTION 3.**

No accumulation of vacation credits in excess of 200 hours shall be permitted.

**SECTION 4.**

Starting January 1<sup>st</sup> of every year, each crew member will get two (2) weeks to select leave time before relinquishing their option to select available dates. The selection sequence will be through seniority. No senior member will be allowed to bump time from crew members after their two (2) weeks. The time off schedule will be sent to the Chief by April 15th and any requested leave time of open shifts will be submitted by the OIC to the Chief by the 20<sup>th</sup> of the month prior.

**SECTION 5.**

Upon separation from service by resignation, retirement, or death, an **EMPLOYEE** covered by this Agreement or his estate or beneficiary, as the case may be, shall be compensated in cash for their vacation credits not in excess of 200 hours.

**SECTION 6.**

For the purpose of this article, an **EMPLOYEE'S** anniversary date shall be defined as commencing with the date of his permanent appointment.

**SECTION 7.**

**EMPLOYEES** may sell up to forty-eight (48) hours each year by giving notice to the Chief prior to December 1st. Vacation buy-outs may not be requested less than 45 days in advance of the effective date of retirement or resignation.

**SECTION 8.**

Vacation and holiday use requests submitted after April 15<sup>th</sup> must be in writing, and any request for changes to approved vacations and holiday time must be in writing.

**ARTICLE XV**

**HOLIDAYS**

**SECTION 1.**

All **EMPLOYEES** covered by this Agreement shall accrue ninety-six (96) hours of holiday leave on January 1<sup>st</sup> of each year, beginning January 1, 2010. Newly hired **EMPLOYEES** covered by this Agreement shall accrue eight (8) hours of holiday leave for each month or part of a month remaining in the year as of the date of hire.

**SECTION 2.**

Such holiday leave time must be taken during the calendar year in which it is received. Any **EMPLOYEE** who has not taken all of his/her holiday time by December 31, in the year in which it is accrued, shall be paid for such unused holiday time in the first full pay period in January of the subsequent year at the previous year's rate.

**SECTION 3.**

Upon separation from service by resignation, retirement, or death, an **EMPLOYEE** covered by this Agreement or his estate or beneficiary, as the case may be, shall be compensated in cash for any holiday time with the **EMPLOYEE** has accumulated.

**SECTION 4.**

All **EMPLOYEES** covered by this Agreement shall be compensated at two times their base rate of pay when returning to duty for emergency call back on the following holidays:

Easter Sunday

Memorial Day

Thanksgiving Day

Christmas Day

Such call backs shall be paid at a minimum of two (2) hours as referred to in Article X,

Section 2.

For purposes of calculating this benefit, the holiday shall be deemed to begin at 8:00 a.m. on the morning of the holiday to 8:00 a.m. the following morning.

## ARTICLE XVI

### LEAVES OF ABSENCE

#### SECTION 1. COURT AND JURY DUTY

If an **EMPLOYEE** is required to appear in court due to events that occurred while on duty for job related matters, and the court date is not during scheduled work hours, such **EMPLOYEE** shall be compensated at the overtime rate. "On duty" **EMPLOYEES** are expected to return to duty within a reasonable period from court duty.

**EMPLOYEES** on jury duty will receive their normal pay for regular work days spent on a jury panel. The **EMPLOYEES** shall submit the payment received from the court to the City, less any amount included for travel allowance or expense reimbursement. Such time off shall be counted as time on duty. **EMPLOYEES** are expected to return to duty within two (2) hours of release from jury duty if within Otsego County. If out of county, **EMPLOYEES** are expected to return within a reasonable period.

An **EMPLOYEE** covered by this Agreement, upon proof of the necessity to attend court pursuant to a Subpoena or other court order, in situations other than set forth in paragraph 1 and

2 above, may use the balance of any accumulated holiday time. Vacation time may be used if needed.

## **SECTION 2.**

An **EMPLOYEE**, covered by this Agreement, who is not sick himself/herself but is required to remain absent because of quarantine and presents a written statement from the attending physician or **LOCAL** health officer providing the necessity of such absence, shall be granted leave with pay for the period of his required absence, without charge against his/her accumulated sick leave, vacation, or holiday credits. Prior to his return of duty, such **EMPLOYEE** may be required to submit a written statement from the **LOCAL** health officer having jurisdiction that his return to duty will not jeopardize the health of other **EMPLOYEES**.

## **SECTION 3.**

A permanent **EMPLOYEE** may, in the discretion of the appointed authority, be granted a leave of absence from his position, without pay, for a period not to exceed six (6) months. For the purpose of this rule, time spent in the military (active) service of the United States or the State of New York shall not be considered in computing this leave.

## **SECTION 4.**

Where a leave of absence without pay has been granted for a period which aggregates eleven (11) months, a further leave of absence without pay shall not be granted unless the **EMPLOYEE** returns to his position and serves continuously therein for six (6) months.

## ARTICLE XVII

### SICK LEAVE

#### SECTION 1.

Sick leave *is* absence with pay necessitated by a non-job related illness or other physical disability of the **EMPLOYEE**.

#### SECTION 2.

**EMPLOYEES**, covered by this Agreement, shall earn sick leave credits at the rate of six (6) hours per bi-weekly pay period and may accumulate such credits up to a total of two thousand one hundred eighty-four (2184) hours. **EMPLOYEES** must be at full pay status for all work days during such pay period to be eligible to earn sick leave. **EMPLOYEES** hired after 12/31/93, may accumulate such credits up to a total of one thousand ninety two (1092) hours. For the purpose of this section, time missed shall be charged on an hour-per-hour basis.

#### SECTION 3.

An **EMPLOYEE** on sick leave shall notify the on-duty supervisor of such absence and the reason therefore on the first day of such absence. Notification of sick leave utilization should be made at or before 0700 hours prior to the beginning of the **EMPLOYEE'S** work day; provided, however, where the work is such that a substitute may be required, the Fire Chief may require earlier notification, but not more than two (2) hours prior to the beginning of the **EMPLOYEE'S** work day.

#### SECTION 4.

Before absence for personal illness may be charged against accumulated sick leave credits, the appointed authority may require such proof of illness as may be satisfactory to it, or may require the **EMPLOYEE** to be examined, at the expense of the appointed authority. In the

event of failure to submit proof of illness upon request, or in the event that upon such proof as is submitted or upon report of medical examination, the appointed authority finds that there is not satisfactory evidence of illness sufficient to justify the **EMPLOYEE'S** absence from the performance of his duties, such absence may be considered as unauthorized leave without pay and shall not be charged against accumulated sick leave credits. Abuse of sick leave credits may be cause for disciplinary action or dismissal.

The appointed authority may require an **EMPLOYEE** who has been absent because of personal illness, prior to and as a condition of his return to duty, to be examined, at the expense of the department, by a physician designated by the appointed authority, to establish that he is not disabled from the performance of his normal duties and that his return to duty will not jeopardize the health of other **EMPLOYEES**. An **EMPLOYEE** will not be charged time against his/her sick leave credits while waiting for an examination appointment with the physician designated by the appointing authority. This will also apply to cases where an **EMPLOYEE** has already received a return to work approval from his/her own physician but is waiting for an examination appointment with the designated physician of the **EMPLOYER**.

#### **SECTION 5.**

In addition to personal illness of the **EMPLOYEE**, the following types of absence, when approved by the appointed authority, may be charged against accumulated sick leave credits; personal visits to a doctor or dentist; illness in the **EMPLOYEE'S** or spouse's immediate family shall be defined as to include the **EMPLOYEE'S** or spouse's mother or father, children (natural or adopted), sisters or brothers. The approval of the Fire Chief, as referred to in this section, refers only to whether the absence meets the qualifications set forth above and may be charged

against accumulated sick leave credits. It does not apply as to whether the time may be taken off. Such approval shall not be unreasonably withheld.

#### **SECTION 6.**

In addition to personal illness, death in the **EMPLOYEE'S** immediate family may be charged to sick leave credits. For the purpose of this section the **EMPLOYEE'S** immediate family shall be defined as to include the **EMPLOYEE'S**, and spouse's mother or father, children (natural or adopted), sisters or brothers, grandparents, and residing relatives. In no case, shall time charged for either Section 5 or this section exceed a total of fifteen (15) days in any one calendar year. Proof of the need for such absences, satisfactory to the appointed authority, may be required.

#### **SECTION 7.**

The appointed authority may, in its discretion, advance sick leave credits to an **EMPLOYEE** absent due to personal illness who has exhausted his accumulated sick leave and vacation credits. Such advance sick leave credits shall be repaid, as soon as practicable after the **EMPLOYEE'S** return to duty, from subsequent accumulation of sick leave credits. The outstanding unpaid sick leave credits advanced to an **EMPLOYEE** under the provisions of this section shall not at any time exceed a total of five (5) days.

Upon termination of the **EMPLOYEE'S** services any such advance, not offset by subsequent accumulation of sick leave or vacation credits, shall be deducted from the salary or wages due the **EMPLOYEE**.

#### **SECTION 8.**

The appointed authority may, in its discretion, grant sick leave at half pay for personal illness to a permanent **EMPLOYEE** having not less than five (5) years of service after all his

sick leave and vacation credits have been exhausted, provided, however, that the cumulative total of all sick leave at half pay hereafter granted to an **EMPLOYEE** during his city service shall not exceed one (1) pay period for each complete year of service.

**SECTION 9. SICK LEAVE BANK**

- a. The purpose of this section is to establish a voluntary sick leave bank. This voluntary sick leave bank may be used by eligible **EMPLOYEES**. An eligible **EMPLOYEE** is defined as that **EMPLOYEE** who has at least six (6) months or more of full-time service with the City of Oneonta and is a contributor to the voluntary sick leave bank.

In addition to establishing the sick leave bank, this section is intended to create a Board of Review, a method of approving or disapproving a request for sick leave, a method of contributing, a maximum usage for voluntary sick leave bank, and a method of determining the value of sick leave.

- b. The Board of Review will be created for the purpose of administering the sick leave bank. The Board of Review will consist of the Personnel Director or his designee and three (3) members selected by the President of the **LOCAL**.

For the purpose of administering; verification of the illness/injury from the **EMPLOYEE'S** attending physician and in all cases of coverage, monthly reports from the physician to the Board of Review are needed. The Board of Review will review all cases on a monthly basis.

- c. Disapproving an application may rely upon the following reasons:
  - i. Not a valid illness/injury
  - ii. Abuse of sick leave prior to application

- iii. Family illness
- iv. Other employment by applicant while on sick leave
- v. Maternity which is deemed as healthy and normal

Request for sick leave will be approved or denied as follows:

Where the Personnel Director approves and the LOCAL members by a *majority* vote approve, the application will be granted.

Where the personnel Director approves and the LOCAL members by a majority vote disapprove, the application will be granted.

Where the personnel Director approves and the LOCAL members by a unanimous vote disapprove, the application will be denied.

Where the Personnel Director disapproves and the LOCAL members by a majority vote disapprove, the application will be denied.

Where the Personnel Director disapproves and the LOCAL members by a majority vote approve, the application will be denied.

Where the Personnel Director disapproves and the LOCAL members by a unanimous vote approve, the application will be granted.

In all cases, the Board of Review shall make the final determination of approval or disapproval of the EMPLOYEE'S application.

An appeal from the Board's decision will not be entertained nor will a grievance based on the following procedure filed under this section be honored.

- d. EMPLOYEES may become members of the bank by banking no less than two (2) twenty-four (24) hour shifts upon their initial enrollment and one (1) twenty-four (24) hour shift each year thereafter as deemed necessary by the Board of

Review. Such donations shall be made by means of filing a signed authorization statement with the Personnel Director no later than January 15th of each year. Membership shall continue each year until the member notifies the Personnel Director of his/her voluntary withdrawal but shall in no case continue into a new year without a new contribution unless deemed not necessary by the Board of Review. **EMPLOYEES** who donate their sick leave hours annually to the bank, will not have those hours donated count towards their sick leave bonus.

- e. The participant must have used all available sick leave prior to commencement of sick leave bank benefits.
- f. The maximum number of hours to be held in and available from the sick leave bank in any one (1) year shall be equal to the total number of hours contributed by the **LOCAL** members and shall not exceed four thousand (4000) hours. Any balance in the sick leave bank remaining on December 31<sup>st</sup> of each year shall be carried over to the sick leave bank for the following year. However, the Bank shall not exceed a total of four thousand (4000) hours.
- g. In the instance of prolonged illness/injury and upon approval by the Board of Review an application with adequate justification, a member of the bank whose sick leave accumulation has been exhausted shall be entitled to draw up to four hundred (400) hours per application against the sick leave bank. There must be days available in the sick leave bank for use. The Board of Review shall have the right to have the Attending Physician verify the medical condition of the **EMPLOYEE**.

- h. Upon separation from the City of Oneonta employment, a member of the bank shall forfeit all sick leave hours previously contributed to the sick leave bank.
- i. An **EMPLOYEE** who earns sick leave credits while on extended sick leave using sick leave bank credits shall be permitted to retain one (1) twenty-four (24) hour shift credit. Any additional credits earned by the **EMPLOYEE** must be used by the **EMPLOYEE** as the credit is earned, before the **EMPLOYEE** may use a sick leave credit. Any credits which are not used by the **EMPLOYEE**, as a result of the accrual and use of personal sick leave credits, shall be returned to the sick leave bank.
- j. A ledger will be kept, by the personnel Office, in order to record the participants of the voluntary sick leave bank; the amount of hours credit, and the value of those sick days. It is understood that when a participant draws sick leave credits from the voluntary sick leave bank, those credits will be of the same value of the participant's sick leave.

If an eligible **EMPLOYEE** is receiving sick leave or disability pay from an insurance plan, the Board of Review may agree to a partial use of the voluntary sick leave bank to offset the difference between the value of the eligible **EMPLOYEE'S** sick leave and the insurance payment.

#### **SECTION 10.**

The **EMPLOYER** will pay to eligible **EMPLOYEES**, a \$100.00 lump sum for all **EMPLOYEES** who have taken 72 hours or less of sick leave in one (1) year. This sum will be in the first pay period of the succeeding year.

## ARTICLE XVIII

### PERSONAL LEAVE TIME

#### SECTION 1.

An EMPLOYEE covered by this Agreement shall be granted twenty-four (24) hours of personal time annually beginning with January 1<sup>st</sup> of the calendar year. Hours used for personal time will be subtracted from the EMPLOYEE'S balance of sick leave. Personal time will not be granted to an EMPLOYEE when there are ninety-six (96) or less hours of sick time remaining in balance.

#### SECTION 2.

Use of personal time shall be for an open shift only. An open shift shall be defined as a full compliment of career firefighters. Any requests for personal time will be submitted by the officer-in-charge to the Chief. A block of personal time shall not be less than two (2) hours in duration. Deductions for personal time used will be on an hour-for-hour basis. Unused personal time shall not be carried over from year to year.

#### SECTION 3.

Time used under this provision will not cause the City to incur additional expense for staffing and will not interfere with Department operational needs. All grants of personal leave time are "conditional" until actually taken so as not to cause additional expense on the part of the City.

## ARTICLE XIX

### HOURS OF WORK

#### SECTION 1.

Work Schedule — The work schedule for all EMPLOYEES covered by this Agreement shall be the twenty-four (24) hours on and seventy-two (72) hours off tour of duty. A tour of duty shall be defined as a twenty—four (24) hour period beginning at 8:00 a.m. on one day and ending at 8:00 a.m. of the following day. It is understood that the annual work schedule will be either 2,184 or 2,208 hours. (With the exception of leap year)

#### SECTION 2.

Inclement Weather - Unnecessary outdoor training, testing and inspection shall be limited and not used as a punitive measure.

#### SECTION 3.

Shift Changes - A firefighter has the option to exchange time and shifts with a fellow firefighter. The proper form will be completed by the shift Captain, Assistant Chief or Fire Chief prior to the exchange. It is understood that the firefighter initiating the swap is responsible for obtaining the proper authorization and both firefighters are responsible for assuring coverage of their designated duty time. The use of mutual swaps will not create any additional cost through overtime or otherwise. All exchange of times must be repaid within four (4) months of the date of exchange, but no later than the end of the calendar year. It is understood that members that do not show up for their designated time are subjected to discipline or a minimum of forty-eight (48) hours loss of time. If members are found to have blatantly missed their shift assignment, they then will be subject to more severe charges.

**SECTION 4. Mass Crew Changes**

Mass crew changes affecting five (5) or more **EMPLOYEES** of the Department which are unrelated to promotions or emergencies shall only occur once a year. Notification of changes must be made to members by December 1<sup>st</sup> with the crew change effective January 1<sup>st</sup> of the following year.

**ARTICLE XX**

**MANPOWER**

If the **EMPLOYER** feels the need to reduce the number of **EMPLOYEES** in the bargaining unit for economic reasons, such reduction shall be by attrition and not to exceed four (4) positions during the length of the agreement.

**ARTICLE XXI**

**RETIREMENT PLAN**

**SECTION 1.**

The **EMPLOYER** agrees to provide the following noncontributory retirement plan for all members covered by this Agreement.

(A.) Effective on or before March 31, 2005, the City shall adopt Retirement Plan 384-(e) and file the appropriate resolution with the State Comptroller for unlimited enrollment for all current and new members who are eligible to join such plan, thereby replacing Plan 384(d). 384(d) will remain in effect until the effective date of the adoption of 384(e).

(B.) Section 360(b) and Section 341(j): The **EMPLOYER** agrees to continue the present coverage for sick leave benefits and for those numbers who are eligible for the guaranteed death benefit.

**SECTION 2.**

Upon retirement only, the **EMPLOYER** will pay in a lump sum accumulated sick leave up to one hundred and twenty-six (126) hours if the **EMPLOYEE** has reached his/her maximum accumulation. Absences in excess of two (2) tours within ninety (90) days of the retirement date shall reduce the retirement payout hour for hour.

**ARTICLE XXII**

**SENIORITY**

Seniority is defined as a privileged status attained by length of continuous service with the Oneonta Fire Department, as the term "continuous service" is defined in Section 80 of the Civil Service Law. Seniority shall apply to choice of vacations, shift assignments, days off and holidays. Seniority rights shall be determined within the ranks, i.e. among the Firefighters, among the Captains. However, in determining preferences for the purpose of selection of shift assignment, seniority within the department, not the shift, shall control. All assignments shall be with the approval of the Fire Chief. Such approval shall not be unreasonably withheld.

**ARTICLE XXIII**

**SAVINGS CLAUSE**

**SECTION 1.**

If any provisions of this Agreement or the application of such provisions, should be rendered or declared invalid by any court action or by reason of any existing or subsequently enacted legislation, the remaining parts or portions of this Agreement shall remain in full force and effect.

**SECTION 2.**

If a determination or decision is made per Section 1 of this Article, the original parties of this Agreement shall convene immediately for the purpose of negotiating a satisfactory replacement for such Article or part thereof.

**ARTICLE XXIV**

**LEGISLATIVE ACTION**

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 the additional funds therefore, shall not become effective until the appropriate legislative body has given its approval.

**ARTICLE XXV**

**MEMBERS COPY**

The **EMPLOYER** shall provide the committee with copies of this Agreement.

**ARTICLE XXVI**

**RULES AND REGULATIONS**

The parties agree that the **EMPLOYER** has the right to establish rules and regulations not in conflict with this Agreement. The parties further agree that the present rules and regulations must be reviewed. The **EMPLOYER** agrees to submit the revised rules and regulations to the **LOCAL** for input by the **LOCAL** prior to instituting the new rules and regulations.

**ARTICLE XXVII**

**LABOR MANAGEMENT COMMITTEE**

A labor management committee shall be established to make recommendations concerning safety and scheduling matters. The committee shall consist of three (3) members appointed by the President of the LOCAL and three (3) members appointed by the Mayor. Meetings of the committee shall be called by mutual agreement of the President of the LOCAL and the Personnel Director. The Personnel Director shall be the Chairman of the committee.

**ARTICLE XXVIII**

**207-a POLICY**

The 207-a Policy annexed hereto as Appendix B shall constitute the policy for the implementation and administration of this section of law.

**ARTICLE XXIX**

**CLEANING**

The EMPLOYER will provide for the washing, on a weekly basis, of uniform shirts, pants, lightweight coats, and job sweatshirt. The EMPLOYER will also dry clean the Class A uniform twice a year.

**ARTICLE XXX**

**EMPLOYEE ASSISTANCE PLAN**

The Labor Management Committee will review and recommend to the Mayor and Common Council an appropriate Employee Assistance Plan (EAP). This plan must meet the approval of the Mayor and Common Council before it can be implemented.

It is agreed by the EMPLOYER AND LOCAL that the EMPLOYER will provide an EMPLOYEE Assistance Program to all EMPLOYEES covered by this Agreement, pursuant to

the agreement between the City and the outside provider. The City agrees not to change the specifications of the agreement during the term of this Agreement. Any alleged breach of the EAP contract and the City and the provider, may be grieved by the affected **EMPLOYEE** under the provision of the Collective Bargaining Agreement.

### **ARTICLE XXXI**

#### **DRUG AND ALCOHOL TESTING**

The parties agree that the Drug and Alcohol Testing Policy and Procedure annexed hereto as Appendix A shall be the policy and procedure utilized by the City and the Local.

### **ARTICLE XXXII**

#### **PAYCHECK CALCULATION**

The parties agree that the formula to be used for the calculation of bi-weekly paychecks is attached hereto as Appendix C and made a part hereof.

### **ARTICLE XXXIII**

#### **SPECIALIZED ASSIGNMENTS**

##### **SECTION 1.**

All specialized positions, deployments and educational opportunities shall be offered to bargaining unit members first. Any need for specialized positions including, but not limited to, i.e., Fire Investigators, Tactical EMS, Technical and/or Specialized Rescue, EMS Bike Patrol, shall be posted to all bargaining unit members by the Chief's office for a minimum of two (2) calendar weeks. The posting shall include the minimum experience, skill levels, fitness requirement if applicable, education or certifications that are or will be required. All interested

bargaining unit members will submit their written request for selection to the Chief's office prior to the posting expiration.

## **SECTION 2.**

It is recognized that deployments for emergency operations/disaster needs outside of the normal response and mutual aid area exist from time to time. In the likelihood of this type of event, any personnel needed for deployment will be selected by qualifications and seniority.

## **SECTION 3.**

An alleged violation of this Article shall be subject to an internal grievance procedure and review as follows:

STEP 1 – Fire Chief

STEP 2 – Mayor

STEP 3 – Internal Grievance Panel composed of three members of the bargaining unit, the Personnel Director, the Mayor, and one common council member designated by the Mayor.

## **ARTICLE XXXIV**

### **CREW LEADER DUTIES, REQUIREMENTS AND SELECTION**

#### **SECTION 1. DUTIES**

Responsible for carrying out the standing orders of the day and performing non-certified routine skills review with crew members. The crew leader will also be responsible for the completion of all necessary computer generated reports including, but not limited to NFIRS. The first arriving officer at any scene will automatically assume command. A crew leader will hold no rank with regard to time off selection or seniority within the department.

#### **SECTION 2. REQUIREMENTS**

A. Courses: ICS 100, ICS 200, ICS 700, ICS 800

OFPC – Introduction to Fire Officer

OFPC - Fire Officer I

- B. 5 years or more as member of Oneonta Fire Department
- C. Ongoing and annual continuing education, i.e. Union Seminars, IAFC Seminars, OFPC courses, FASNY training.

### **SECTION 3. SELECTION**

The 4 most senior firefighters within the Department who meet the criteria set forth above will be offered the assignment on each of the 4 crews. If he/she refuses the assignment and there are others in the Department who meet the criteria, they will be offered the assignment in order of seniority.

The crew leader will be compensated, hour for hour, at the rate of First Year Captain when acting in the absence of a Captain. Absence shall be defined as anytime off granted as part of the current Agreement. This will also apply to the absence of a Captain or Chief on all call backs. The designated hourly rate is referenced in Article IX of this Agreement.

### **ARTICLE XXXV**

#### **USE OF PERSONAL CELLULAR PHONES**

The use of personal cell phones or other electronic devices while on duty is prohibited except as provided below. This specifically includes, but is not limited to the taking of calls, texting, photographs or posting on personal social media/networking/micro-blogging accounts or websites while on duty and/or at the scene of a fire or other emergency, during training or while engaging in other station duties. Personal cell phones and electronic devices may be used for Fire Department related purposes, including the taking of photographs or for medical reference.

Cell phones may only be used for personal reasons during mealtimes or evening down time unless there is a family emergency. Under no circumstances shall photographs taken for work related purposes be posted on personal social media/networking/micro-blogging accounts or websites.

**ARTICLE XXXVI**

**PERFORMANCE EVALUATION**

The parties agree to convene a labor-management committee to determine the procedures and form to be used for the annual evaluation of employees.

**ARTICLE XXXVII**

**DISCIPLINE PROCEDURE**

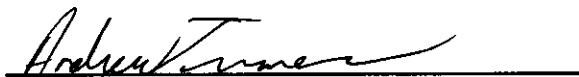
The parties agree to convene a labor-management committee to discuss alternative disciplinary procedures to Section 75 of the Civil Service Law.

**ARTICLE XXXVIII**

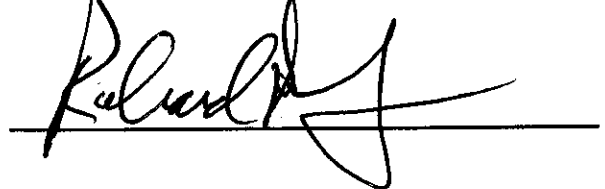
**SIGNATURE**

**IN WITNESS WHEREOF**, the parties have executed this document by their duly authorized representatives the 19 day of September 2013.

**FOR THE LOCAL**



**FOR THE EMPLOYER**



**MEMBERS OF THE NEGOTIATING COMMITTEE**

**FOR THE LOCAL**

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**FOR THE EMPLOYER**

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**APPENDIX "A"**  
**CITY OF ONEONTA FIRE DEPARTMENT**  
***Random and Cause Drug and Alcohol Testing***

**Purpose**

- 1.1 The purpose of this policy is to establish the City of Oneonta's policy regarding rules governing random and cause drug and alcohol testing for all members of the City of Oneonta Fire Department. As an employer, the City of Oneonta maintains a strong commitment to provide a safe, efficient work environment for its Firefighters and the public they serve. This policy is based upon the City's policy and practice of prohibiting the use of illegal drugs and prohibiting the use of alcohol by its employees on the job, within a reasonable time prior to reporting to work.

**Program Requirements**

2.1 **Participation as a Condition of Employment**

All current Oneonta firefighters and firefighter applicants must participate in the random drug and alcohol-testing program described herein. Failure to participate in, and comply with, any and all program requirements may result in disciplinary action by the City up to, and including, termination of employment.

2.2 **Prohibited Behavior**

It is the policy of the City of Oneonta Fire Department that:

- (a) No firefighter shall engage in the unauthorized use, sale, distribution, possession or manufacture of any illegal drugs, controlled substances or alcohol on a job site or on City property while on duty or while in a City vehicle;
- (b) No firefighter shall report to work unfit for duty at the beginning of a shift or upon returning from any break, lunch, or rest period as a result of consuming illegal drugs, alcohol or any other intoxicant or controlled substance;
- (c) In some cases, the use of authorized prescription or over-the-counter drugs may cause impairment that prohibits the firefighter from performing their firefighting duties. It is the sole responsibility of the firefighter taking any prescription drug(s) or over-the-counter medication(s) that may impair performance to consult with his/her physician or pharmacist regarding its effects and to inform his/her supervisor if he/she may be impaired. A firefighter may be required by the Chief or his designee to have his/her physician certify that a given medication or drug does/does not adversely affect the firefighter's fitness for duty;

- (d) Violation of any of these rules by a City firefighter may result in disciplinary action up to, and including termination of employment.

### 2.3 Circumstances for Testing

This policy requires that drug and alcohol tests be given to City firefighters in the following circumstances:

- (a) Pre-employment Testing. Applicants for employment in the class of firefighter and any officer position not filled internally must be given a pre-employment drug test. Firefighter applicants may not be hired or assigned to duty unless they complete and pass the test. Prior to conducting the drug test, the City will inform the applicant of the testing requirements. Vacancy announcements and job postings must stipulate that passing a drug test is a condition of employment. Finally, applicants will be required to sign a document acknowledging that they know they are subject to testing.
- (b) Reasonable Suspicion Testing. Reasonable suspicion that a firefighter may be abusing drugs and alcohol exists when objective facts and observations are brought to the attention of a superior officer and, based upon the reliability and weight of such information, as well as the officer's own observations he/she can reasonably infer or suspect that a firefighter may be under the influence of alcohol or drugs. Reasonable suspicion must be supported by the purchase, sale or possession of alcohol or drugs; unexplained change in the firefighter's behavior or work performance; an observed impairment of the firefighter's ability to perform his/her duties; other objective criteria such as the odor of alcohol, slurred speech, staggering or impaired gait or other behavioral indicators as taught to supervisors by a substance abuse professional.
- (c) Post-Accident Testing. In all cases of any on-duty City firefighter being in an accident involving the loss of human life or if a City firefighter is the driver of any vehicle involved in an accident during on-duty time and receives a citation under State or local law for a moving traffic violation arising from the accident, post-accident drug and alcohol tests will be administered to the City firefighter(s) driving the vehicle or operating equipment. In addition, it is the City's policy to require post-accident drug and alcohol testing where significant property damage occurs as a result of an accident or where the firefighter's record of accidents would give cause for concern. Drug and Alcohol testing will be performed immediately following the accident. If an alcohol test is not administered within two (2) hours following the accident, then the command officer on the scene must also prepare and maintain a record stating the reason(s) the test was not promptly administered to the firefighter(s). The requirements to test for alcohol and drugs following an accident shall in no way delay necessary medical attention for injured people or prohibit a firefighter from leaving the scene of an accident to obtain necessary emergency medical care. However, subject to the preceding sentences, a firefighter who is subject to post-accident testing shall remain readily

available for such testing or he/she may be deemed to have refused to submit to testing.

- (d) Random Testing. The selection of firefighter for random drug and alcohol testing shall be made by a scientifically valid random-number selection method. The selection method shall assure that each firefighter shall have an equal chance of being tested each time selections are made. Selection shall be determined by the City's testing vendor contracted to administer the drug and alcohol-testing program. Random Testing will only be conducted while a firefighter is on duty Monday through Friday. Random Testing will not be done on callback personnel. Not more than seven (7) bargaining unit members of the City Fire Department will be the number used for firefighters to be tested annually on a random basis for the purpose of detecting the presence of illegal drugs and alcohol. The test dates shall be spread reasonably throughout the year with no established pattern. Testing will be unannounced, as well as random. Notification and test arrangements will be unannounced, as well as random. The Fire Chief or Assistant Chief will make notification and test arrangements. Once a firefighter has been notified that he/she has been selected for random testing, the firefighter shall report immediately to the collection site. Firefighters shall be individually and discreetly notified to report to the collection site, and they shall be assured that they have been selected for a random test. See Appendix "A" attached for drug testing procedures.
- (e) Return-to-Duty Testing. Before any firefighter is allowed to return to full duty following a verified positive drug test result, an alcohol result of 0.02 or greater or a refusal to submit to a test, that firefighter must undergo a return-to-duty test. Any return-to-duty alcohol test result must indicate an alcohol concentration of less than 0.02. Any return-to-duty drug test result must indicate a verified negative result for controlled substance use. In addition, before a return-to-duty alcohol or drug test is performed, the firefighter must be evaluated by a substance abuse professional (SAP) who shall determine what assistance, if any, the firefighter may need and shall determine whether the firefighter has subsequently followed all recommendations made by the SAP, including participation in any rehabilitation program. Failure of a firefighter to following counseling and/or rehabilitation program recommendations as determined by the substance abuse professional will subject the firefighter to the disciplinary provisions of this policy up to, and including, discharge. Nothing in this section shall be construed as requiring or obligating the City to allow any individual firefighter who tests positive for alcohol or drugs to return to duty. Each individual case will be evaluated on the circumstances and individual merits of the firefighter involved.
- (f) Follow-up Testing. If, and when, a firefighter is allowed to return to duty, such a firefighter shall be subject to unannounced follow-up testing for at least twelve (12) months but no more than forty-eight (48) months. The frequency and duration of the follow-up testing will be recommended by the substance abuse professional (SAP) as long as a minimum of six (6) tests are performed during the

first twelve (12) months after the firefighter has returned to duty. Any subsequent verified positive alcohol or drug test involving that firefighter will be considered a new offense

2.4 Behavior that Constitutes a Refusal to Submit to a Test. The following actions or behaviors shall constitute a refusal to submit to a required test:

- (a) Refusal to take the test;
- (b) Inability to provide sufficient quantities of breath or urine to be tested without a valid medical explanation;
- (c) Tampering with, or attempting to adulterate, the specimen or collection procedure;
- (d) Failure to report to the collection site in the time allocated; or
- (e) Failure to remain readily available for post-accident testing.

2.5 Testing Procedures

- (a) Drug Testing. Drug testing is conducted by analyzing the firefighter's urine specimen. Specimens are collected in an off-site facility that must meet the requirements of Appendix "A" to assure privacy and the integrity of specimen collection. The firefighter provides a urine specimen, which is sealed and labeled by an authorized agent of the testing organization. A chain of custody document is completed and the specimen is shipped to a certified laboratory. The specimen collection procedures and chain of custody ensure that the specimen's security, proper identification, and integrity are not compromised.

This policy expressly provides that collection protocol will include split specimen techniques. Each urine specimen is sub-divided into two containers labeled as primary and split specimens. Both specimens are forwarded to a laboratory certified by the U.S. Department of Health and Human Services (DHHS). Only the primary specimen is used in the urinalysis. The split specimen remains sealed and stored unless, and until, it is required for confirmation of a positive test.

An initial screening test is performed. If the test is positive for one or more drugs, then a confirmation test is performed for each identified drug using a gas chromatography/mass spectrometry (GC/MS) analysis. GM/MS confirmation assures that over-the-counter medications are not reported as positive results.

If the analysis of the primary specimen confirms the presence of controlled substances, then the firefighter has seventy-two (72) hours to request that the split specimen be sent to another DHHS certified laboratory for analysis. The split specimen procedures may provide the employee with an opportunity for a second

opinion. All drug test results are reviewed and interpreted by a physician, Medical Review Officer (MRO), before they are reported to the City.

If laboratory reports a positive result to the MRO, then the MRO contacts the firefighter and conducts an interview to determine if there is an alternative medical explanation for the presence of a controlled substance in the specimen. If the firefighter provides appropriate documentation and the MRO determines that there is a legitimate medical use of the prohibited drug, then the test result is reported to the City as a negative.

Urine specimens are analyzed for the following drugs:

- Marijuana (THC metabolite)
- Cocaine
- Amphetamines
- Opiates (including heroin)
- Phencyclidine (PCP)

(b) Alcohol Testing. Alcohol testing is conducted using evidential breath testing (EBT) devices approved by the National Highway Traffic Safety Administration (NHTSA). A breath alcohol technician (BAT) trained in the operation of the EBT and in alcohol testing procedure prescribed by the rule must perform the breath test. Two (2) breath tests are required to determine if a person has a prohibited alcohol concentration. Any result from the screening test is considered negative if the alcohol concentration is less than 0.02. If the alcohol concentration is 0.02 or greater then a confirmation test must be conducted. The firefighter and the BAT complete the alcohol testing form to ensure that results are properly recorded. The confirmation test must be conducted using an EBT that prints the results, date, time, in sequential test numbers, and the name, serial number, and calibration information and certification of the EBT to ensure the reliability of the results. BAT's shall conduct the EBT employed by drug and alcohol testing organization under contract with the City of Oneonta. Agents of the City or of any of its departments shall not perform the breath alcohol test. Law enforcement officers will not conduct the tests as part of roadside inspections. Under certain circumstances, post-accident tests conducted by law enforcement personnel will be acceptable. See Appendix "B" attached for alcohol testing procedures.

(c) Confidentiality of Test Results. The City of Oneonta, the drug testing laboratory, the alcohol testing facility, and the medical review officer shall maintain firefighter drug and alcohol testing results and records under strict confidentiality. The results cannot be released to any other party, except a substance abuse professional, without the written consent of the firefighter. Exceptions to these confidentiality provisions are limited to a decision-maker in arbitration, litigation, or other administrative proceedings arising from a positive drug or alcohol test or other violation of these rules. The City of Oneonta and the drug and alcohol-

testing provider maintain statistical records and reports. This information is aggregate data and is used only to monitor the effectiveness of the program.

## 2.6 Consequences of the use of drugs and the misuse of alcohol

All covered employees must submit to drug and alcohol testing. Refusal to submit to testing is prohibited. The consequences for a refusal are therefore the same as if the person had submitted to testing and had a positive test result.

The following actions may also constitute a refusal:

- (a) Failure to show up for any test within a reasonable time after being directed to do so by the employer.
- (b) Refusal to sign the certification provided by the Technicians.
- (c) Deliberate failure or refusal to provide adequate breath or urine sample. If the employee is unable to provide an adequate breath or urine sample, the City shall direct the employee to obtain an evaluation from a licensed physician, acceptable to the City, as soon as practicable to determine the employee's medical ability to provide an adequate breath and/or urine sample. If the physician determines that a medical condition did (or could have) prevent the employee from providing the adequate sample the failure shall not constitute a refusal. However, if the physician is unable to make such a determination, the employee's failure shall constitute a refusal.
- (d) Engaging in conduct that clearly obstructs the testing process, e.g., adulteration or dilution of specimen.
- (e) Claiming illness after notification of testing.

### A. Consequences of Alcohol Misuse.

- 1. A test measurement of less than or equal to .019 alcohol concentration will allow the employee to return to work.
- 2. A test measurement of 0.020 to 0.049 alcohol concentration will cause the employee to be suspended without pay for that tour. The employee will be allowed to return to work at the next assigned tour when that employee is tested immediately prior to returning to work and the results of such testing indicate the employee has a 0.00 concentration. Any employee who tests positive twice within these parameters (0.020 to 0.049) during a twenty-four month period shall be immediately suspended without pay for thirty (30) calendar days.

3. A test measurement of 0.050 or greater will cause the employee to be suspended immediately without pay for thirty (30) calendar days. Any additional disciplinary measure will be subject to Section 75 of the Civil Service Law. Prior to returning to work, an employee must receive a certification from a Substance Abuse Professional (SAP) that the employee is able to perform their full duties. Suspension without pay will continue until such certification is received. Any member who tests positive twice with these parameters (0.050 or greater) during a twenty-four (24) month period shall be immediately terminated.
4. Any employee who refused an alcohol test shall be treated as testing positive with an alcohol content of 0.050.
5. Following completion of the suspension period, the employee must pass an alcohol test (0.00) prior to having the suspension without pay lifted and returning to work. Any member who tests positive with an alcohol content of 0.020 or greater shall be subject to random alcohol tests for the next twenty-four (24) months while on duty at the discretion of the Chief or Assistant Chief.

**B. Consequences of Use of Drugs**

A firefighter who has a verified positive drug test result will be immediately removed from duty and will be subject to a thirty (30) calendar day suspension without pay. The firefighter shall not be allowed to return to duty until the firefighter has been evaluated by a Substance Abuse Professional. Before a firefighter returns to duty, the firefighter must undergo and pass a Return to Duty Substance Test with a verified negative result. The firefighter remains suspended until able to pass the required tests.

The employer may take additional disciplinary action depending upon the circumstances surrounding the positive test result.

A second positive drug test at any time during an employee's tenure with the Oneonta Fire Department shall result in immediate and automatic termination.

A refusal or failure to submit to a required drug test shall be deemed a positive test.

- C.** The automatic penalties provided herein are final and binding, except that the employee may grieve and arbitrate a violation of the "chain of evidence" which had the effect of tainting the outcome (result) of the test.

## 2.8 Training for Supervisors.

The City of Oneonta shall ensure that all supervisors and other persons designated to determine whether reasonable suspicion exists to require a firefighter to undergo testing must receive a minimum of sixty (60) minutes of training bi-annually on alcohol misuse and a minimum of sixty (60) minutes of training on controlled substance use. The training shall include the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances. The training shall include an overview of the program requirements, disciplinary procedures, confrontation and documentation procedures, and rehabilitation and treatment options, which are available through the City of Oneonta's Employee Assistance Program (EAP) or other available providers.

## 2.9 Training for City Firefighters

The City of Oneonta shall ensure that all firefighters will be trained bi-annually for a minimum of sixty (60) minutes on the effects and consequences of prohibited drug use on personal health, safety, and the work environment, as well as the manifestations and behavioral signs that may indicate prohibited use, as per the training materials (video and written) provided by the City's EAP or other available providers.

## 2.10 Supervisory Responsibilities

It is the policy of the City of Oneonta that:

- (a) Supervisors are responsible for determining through direct observation whether a firefighter is capable of performing his or her assigned duties. Determinations shall be based on specific, contemporaneous, articulate, reliable observations concerning the appearance, behavior, speech, or body odor of the employee.
- (b) Any firefighter who is suspected of being unfit for duty as a result of alcohol or drug use shall be required to undergo reasonable suspicion drug and alcohol testing in accordance with this policy. Supervisors must immediately bring their observations to the attention of their supervisors in order that arrangements for testing can be implemented as soon as practicable.
- (c) Incidents and behavior described above must be witnessed and documented immediately. The supervisor's manager should be consulted and advised of the incident. A firefighter who is impaired will not be allowed to drive home from the work place or the test site. The supervisor should arrange to send the unfit firefighter home with a member of the employee's family or friend of the firefighter or in a taxi at the firefighter's expense. If all other alternatives are exhausted, a supervisor may allow a firefighter who is unfit for duty to then be driven home in a City vehicle.



- (d) When a firefighter displays dangerous, aggressive, or abusive behavior which clearly constitutes a danger to that firefighter or others and the firefighter resists voluntarily leaving the workplace, the supervisor may immediately suspend the firefighter and order the firefighter to leave the premises. The supervisor must take immediate steps to notify the department head of the situation including having the department head paged or called at home.
- (e) In cases where the firefighter does not comply with the order to leave the work place and continues to display aggressive and/or abusive behavior that constitutes a danger in the workplace, the supervisor may have to contact local law enforcement authorities to remove the employee from the workplace. This action should only be taken if it is believed an immediate danger to persons or property exists and the other measures described above were unsuccessful in controlling the situation.

#### 2.11 Management Responsibilities

It is the policy of the City of Oneonta that:

- (a) A drug and alcohol free workplace shall be maintained through the efforts and personal example of management.
- (b) Subordinate managers and supervisors who fail to perform their duties and responsibilities as outlined in this policy will be subject to disciplinary action up to, and including, termination of employment.
- (c) Managers and supervisors are encouraged to discuss with firefighters any behavior or job performance facts that may indicate the use of drugs, alcohol, or other violations of this policy and to suggest, when appropriate, that a firefighter seek assistance through the City's EAP.
- (d) Effective January 1, 2005, managers shall direct all firefighters under their direction and subject to this policy to comply with the provisions of this policy for reasonable suspicion, random, post-accident, return-to-duty, and follow-up testing.
- (e) Firefighters who make reasonable suspicion determinations must receive training on the physical, behavioral, and performance indicators of probable drug use and alcohol misuse. Such training shall be conducted by staff from the City's EAP, or other substance abuse professional.



## *APPENDIX A-1*

A. If an employee while on duty exhibits a physical condition, conduct or pattern or erratic behavior which indicates that the employee is under the influence of an intoxicating substance, and the employee's supervisor has reasonable cause to believe, based on direct observation of use or based on observation of the employee's conduct, performance or behavior which indicates that the employee is under the influence of an intoxicating substance, or if the supervisor is provided with information from a reliable and credible source which is independently corroborated that the employee is engaging in use of or is under the influence of intoxicating substances while on duty or that the employee is engaging in illegal use, possession, distribution, or sale of a controlled substance or drug on duty, the supervisor shall make an oral report to the Fire Chief (or his designee).

B. The Fire Chief (or his designee) shall decide whether there is reason to investigate for purposes of ascertaining if available facts objectively indicate reasonable suspicion exists to pursue the inquiry, which may include meeting with the employee for purposes of providing the employee an opportunity to explain the conduct, performance or behavior.

C. If the Fire Chief (or his designee) decides that the employee should be referred for drug and alcohol testing, the following procedure shall be followed:

The Fire Chief (or his designee) shall complete the "reasonable suspicion" checklist form, sign it and have an officer of the department or, if none available, a firefighter, countersign, which signatures shall attest to the objective basis to support a reasonable suspicion that the employee is under the influence of alcohol or drugs. Failure to have a second signature shall not void the process or the results of the test. The "reasonable suspicion" checklist which shall be used is attached hereto as Appendix A-2 and made a part hereof.

D. The employee shall have the right to have a Union representative present for collection of the sample. In no event shall collection be delayed for more than one hour to accommodate the presence of a Union official.

**APPENDIX A-2**

**Reasonable Cause  
Drug and Alcohol Testing Checklist**

**TO BE COMPLETED BY FIRE CHIEF OR HIS DESIGNEE**

**Name of Employee:** \_\_\_\_\_

**Rank:** \_\_\_\_\_

**Nature of Incident/Cause of Suspicion:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Behavioral indications noted, if any:** \_\_\_\_\_

\_\_\_\_\_

**Physical signs or symptoms noted, if any:** \_\_\_\_\_

\_\_\_\_\_

**Witness, corroboration, etc.:** \_\_\_\_\_

\_\_\_\_\_

**Has the employee taken any medication(s) in the past four weeks?** \_\_\_\_\_

**If yes, list medication(s), quantity, and last date taken:** \_\_\_\_\_

\_\_\_\_\_

**Signature of Fire Chief or designee:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Signature of Officer or Firefighter:** \_\_\_\_\_

**Date:** \_\_\_\_\_

## APPENDIX "B"

### **Procedure for the Administration of Section 207-a of The General Municipal Law for The Fire Department of the City of Oneonta**

#### **Section 1 INTENT**

This procedure is intended to implement Section 207-a of the General Municipal Law.

For the purpose of this Article, "business day" shall mean Monday through Friday excluding any holiday when City Hall is closed for regular business.

#### **Section 2 NOTICE OF DISABILITY OR NEED FOR MEDICAL OR HOSPITAL TREATMENT**

a. A firefighter or anyone acting on his behalf, who claims a right to benefits under Section 207-a of the General Municipal Law either because of a new illness or injury or the recurrence of a prior illness or injury shall make written notice and application for those benefits within ten [10] business days of when the firefighter reasonably should have known that the illness or injury would give rise to the claim of entitlement to 207-a benefits. The written notice and application shall be presented to the Chief on the form which is made a part of this procedure (See Appendix "A" - Form 1). **Effective January 1, 2012, 207-a benefits shall not be granted for injuries occurring or related to off-duty physical training and the annual physical fitness test shall be discontinued. City provided membership to exercise facilities shall be discontinued as of January 1, 2013.**

b. The firefighter shall provide a medical authorization for the City to obtain copies of his relevant medical records from his treating physician or other health care provider. (See Appendix "A" - Form 2). The City will provide the firefighter, without cost to the firefighter, a copy of the records and reports provided to the City pursuant to the authorization as well as any records or reports by physicians, health care providers, or other experts who examine the firefighter on behalf of the City. The medical authorization shall contain a confidentiality statement prohibiting the use or release of the firefighter's medical records except for purposes authorized by this Procedure including any hearing undertaken pursuant to Section 7.

c. The firefighter or his representative shall also complete a form notifying the Retirement System of his or her claim for on-the-job injury. The form should be returned with the 207-a Application for transmittal by the Chief's office. The form is attached hereto as Appendix "A" - Form 3.

d. In the event of a personal inability by the firefighter to give notice, such notice may be made by another acting on behalf of such firefighter. If known, the notice shall describe the nature of the injury or sickness and the name of the treating physician.

e. The failure to satisfy any time limits specified above shall render a notice of filing untimely and shall preclude an award of any benefits pursuant to Section 207-a of the General Municipal Law; provided, however, that the Hearing Officer shall have the discretionary authority to excuse a failure to provide notice or file a report upon good cause shown.

### **Section 3 STATUS PENDING DETERMINATION OF ELIGIBILITY FOR BENEFITS.**

a. The firefighter shall be placed on sick leave pending determination of his eligibility for Section 207-a benefits.

b. In the case of any employee who has no sick leave time accrued to his/her credit, the City will advance sick leave for the purposes of this Section until such time as a final determination pursuant to Section 4 or Section 7 (as applicable), below, is made. In the event that the employee is denied 207-a eligibility and either the employee does not appeal this denial or after appealing the denial, the denial of benefits is upheld, the employee will reimburse the City in time (sick or vacation time) or money, at the option of the employee, for the sick leave time advanced.

c. In the event that an employee is found to be eligible for 207-a benefits, the employee will have all used sick leave credits restored.

#### **Section 4 BENEFIT DETERMINATIONS**

a. The City shall promptly review a firefighter's application for Section 207-a benefits and shall determine his eligibility within fifteen [15] business days after the Chief receives the application. The final determination shall be made by the Mayor and the City Council.

b. In determining the application the City may require a more detailed statement from the firefighter than that contained on the application. The City may take statements from witnesses and may send the firefighter to a physician or physicians (including Fox Health Care) of its choice for examination at the City's expense.

c. The determination will be made in writing to the firefighter, setting forth in detail any and all reasons for the determination. In the event that the application is denied, the City will simultaneously provide the firefighter, without cost, a copy of all information produced or acquired by it, in connection with the firefighter's application and determination for Section 207-

a benefits. The City will continue to provide the firefighter with additional medical information subsequently produced or acquired.

## **Section 5 ASSIGNMENT TO LIGHT DUTY**

As authorized by the provisions of Subdivision 3 of Section 207-a, the Department, acting through the Chief may assign a disabled firefighter specified light duties, consistent with his/her status as a firefighter. The Chief prior to making a light duty assignment, shall advise the firefighter receiving benefits under Section 207-a that his/her ability to perform a light duty assignment is being reviewed. Such a firefighter may submit to the Chief any document or other evidence in regard to the extent of his/her disability. The Chief may cause a medical examination or examinations of the firefighter, to be made at the expense of the City. The physician selected, the firefighter and his/her physician, shall be provided with the list of duties and activities associated with a proposed light duty assignment. The City's physician shall make an initial evaluation as to the ability of the disabled firefighter to perform certain duties or activities, given the nature and extent of the disability. If the firefighter's physician does not agree that the firefighter is medically able to perform the light duty assignment, he must express, in writing, those elements of the light duty assignment which the employee cannot perform and the specific medical reasons which preclude the firefighter from performing the duties. If there is a disagreement between the City's physician and the firefighter's physician as to the firefighter's fitness to perform one or more portions of the duties of the light duty assignment, those portions cannot be assigned until the dispute is resolved pursuant to Section 7. It is understood that assignment to light duty is temporary and that a firefighter so assigned does not have any entitlement to a continued light duty assignment for an indefinite duration of time.

Nothing contained herein shall require the Department to create light duty assignments.

## **Section 6    TERMINATION OF BENEFITS**

a.     Salary payments provided by Section 207-a(1) shall terminate upon: (i) a determination to terminate benefits pursuant to Section 7; or (iii) the employee is retired from service. Nothing herein shall preclude the continuation of 207-a benefits pursuant to 207-a(2), if appropriate.

b.     The City will not discontinue Section 207-a benefits without the consent of the firefighter unless the firefighter's treating physician certifies that he is medically able to return to work and the firefighter refuses to do so. In the event that the City believes that the benefit should terminate and the firefighter does not consent, or his physician does not certify that he is able to return to work, the City may utilize the provisions of Section 7 in order to receive a determination from the arbitrator regarding the firefighter's continued eligibility for benefits.

## **Section 7    DISPUTE RESOLUTION PROCEDURE**

In the event that the City denies an application for Section 207-a benefits, seeks to discontinue Section 207-a benefits during a period of award, there is a dispute about whether a firefighter is capable of performing a specific light duty assignment, or there is an issue with respect to outside employment, the matter will be submitted directly to an arbitrator selected from the panel of arbitrators agreed to by the parties who shall conduct a proceeding pursuant to the rules of the Public Employment Relations Board. A hearing shall be held as quickly as possible but within sixty (60) days of appointment except that the deadline may be extended upon mutual consent. The arbitrator shall render his decision within thirty (30) days of the closing of the record. The determination of the arbitrator shall be final and binding on the City and the firefighter, but shall not preclude further review at a subsequent date based upon new or supplemental medical or other information. The cost of arbitration shall be borne equally by the

City and the firefighter. The panel of eligible arbitrators shall be: Sheila Cole, Jeffrey Selchick and Patrick Monserrate.

### **Section 8    DISABILITY RETIREMENT**

Consistent with Section 207-a, the City may file an application on the firefighter's behalf for retirement under Sections 363 or 363-c of the New York State Retirement and Social Security Law. Any injured or sick firefighter who is receiving 207-a benefits shall permit reasonable medical inspections in connection with such an application for accidental disability retirement or performance of duty disability retirement.

### **Section 9    CONTINUATION OF CONTRACT BENEFITS**

For the first nine (9) months of leave pursuant to Section 207-a, a firefighter will continue to accrue all contract benefits. Beginning in the tenth (10th) month, the firefighter shall not accrue any contract benefits except for wages, applicable longevity and health insurance. In the event that the firefighter is assigned to light duty (pursuant to Section 5, above) the firefighter will be entitled to all contractually negotiated fringe benefits with respect to holidays, clothing, vacation, sick leave, etc.

### **Section 10    OUTSIDE EMPLOYMENT**

If an EMPLOYEE applies for payment under Section 207(a) of the G.M.L., he/she shall submit an Affidavit that he will not engage in any employment prohibited by G.M.L. Section 207-a(6).

If, as a result of an investigation, the Chief or the City determines that a firefighter receiving benefits pursuant to 207-a has engaged in paid outside employment in violation of Section 207-a(6), the Chief or the City shall provide written notice of such determination. The notice shall specify in detail any and all reasons and the factual basis for those reasons for the

determination. The firefighter may appeal the determination pursuant to Section 7 herein. The arbitrator shall have the authority to determine the amount of benefit to be reimbursed, if any, and direct the manner in which such reimbursement shall be made. The City, upon request, must be provided with a W-2 form or tax returns or other proof other than sworn statements by the firefighter. The firefighter may redact irrelevant information from the income tax information requested by the City, e.g., spousal income.

### **Section 11 HAZARDOUS EXPOSURE**

A firefighter, who reasonably believes he or she may have been exposed to a health hazard, e.g., AIDS, Hepatitis-B, biological or chemical toxins, etc., as a result of the performance of his or her duties, may file a hazardous exposure incident form (See Appendix "A" - Form 4) at the time of the exposure. The exposure form will be maintained by the City in the firefighter's personnel file. The failure to file the Hazardous Exposure Incident form will not preclude the filing of an Application for 207-a benefits.

If a firefighter claims a job-related injury due to exposure to a health hazard, then he or she must comply with the Notice of Disability filing requirements of Section 2 as well as the other requirements of this Article.

### **Section 12 EXCLUSIVITY OF PROCEDURES**

These procedures are the sole exclusive procedures for determining a firefighter's eligibility for benefits under Section 207-a. As such, a firefighter shall have no right to challenge decisions of the City regarding eligibility or continued eligibility for 207-a benefits under the grievance machinery included in any collective bargaining agreement to which the firefighter or his or her collective bargaining representatives are a party.

Either party may file a grievance for a violation of these procedures. In that case, the scope of the arbitrator's authority will be solely to determine whether the procedures were complied with or violated.

**Appendix "B" - FORM 1  
City of Oneonta Fire Department**

*General Municipal Law Section 207-a*

**Application**

1. \_\_\_\_\_  
Name of Firefighter
  
2. \_\_\_\_\_  
Address
  
3. \_\_\_\_\_ 4. \_\_\_\_\_  
Telephone number Age
  
5. \_\_\_\_\_  
Name of Supervisor
  
6. \_\_\_\_\_  
Current Job Title
  
7. \_\_\_\_\_  
Occupation at Time of Injury/Illness
  
8. \_\_\_\_\_  
Length of Employment
  
9. \_\_\_\_\_ 10. \_\_\_\_\_ 11. \_\_\_\_\_  
Date of Incident and NFIRS # Day of Week Time  
(if applicable)
  
- 12.a. \_\_\_\_\_  
Name of witness(es)
- b. \_\_\_\_\_
- c. \_\_\_\_\_

13. Describe what the firefighter was doing when the incident occurred. (Provide as many details as possible. Use additional sheets if necessary).

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---

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14. Where did the incident occur? Specify. \_\_\_\_\_

---

15. How was the claimed injury or illness sustained? (Describe fully, stating whether injured person slipped, fell, was struck, etc., and what factors led up to or contributed. Use additional sheets if necessary.)

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---

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16. When was the incident first reported? \_\_\_\_\_

To whom? \_\_\_\_\_ Time \_\_\_\_\_

Witness (if any) \_\_\_\_\_

17. Was first aid or medical treatment authorized? \_\_\_\_\_

By whom? \_\_\_\_\_ Time and PCR # \_\_\_\_\_  
(if applicable)

18. Name and address of attending physician \_\_\_\_\_

---

19. Name of hospital \_\_\_\_\_

20. State nature of injury and part or parts of body affected \_\_\_\_\_

---

21. Will the firefighter be returning to duty? \_\_\_\_\_  
When? \_\_\_\_\_

\_\_\_\_\_  
Date of report

\_\_\_\_\_, New York \_\_\_\_\_  
Signature of Applicant

**CITY OF ONEONTA**  
**Appendix "B" – FORM 2**

THIS FORM IMPLEMENTS THE REQUIREMENTS OF THE STANDARDS FOR PRIVACY OF INDIVIDUAL IDENTIFIABLE HEALTH INFORMATION (THE PRIVACY RULE) ESTABLISHED PURSUANT TO THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA) EXCEPT AS OTHERWISE PERMITTED OR REQUIRED BY THE PRIVACY RULE, A HEALTH CARE PROVIDER MAY NOT USE OR DISCLOSE PROTECTED HEALTH INFORMATION WITHOUT AUTHORIZATION THAT COMPLIES WITH THE REQUIREMENTS OF 45 C.F.R. SECTION 164.508 THE HEALTH CARE PROVIDER MUST GIVE A COPY OF THIS COMPLETED FORM TO THE PATIENT.

**Authorization for Use and Disclosure of Protected Health Information**

Patient's Name \_\_\_\_\_ DOB \_\_\_\_\_ SSN \_\_\_\_\_

Address \_\_\_\_\_

I hereby authorize the use and disclosure of protected health information for treatment rendered during the time period:

From \_\_\_\_\_ through \_\_\_\_\_.

The information described below may be disclosed to: Kathy Ann Wolverton, Personnel Director, City of Oneonta, City Hall, 258 Main Street, Oneonta, NY 13820.

The specific type(s) of information authorized are as follows:

(Circle ALL appropriate types)

INPATIENT HOSPITAL    OUTPATIENT HOSPITAL    PHYSICIAN/SUPPLIER

CLINICAL LABORATORY    HOME HEALTH AGENCY SKILLED NURSING FACILITY

OTHER (SPECIFY) \_\_\_\_\_

Name and address of all physicians:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The information that may be used or disclosed includes:

(Circle ALL appropriate types)

INTERVIEW OF ATTENDING PHYSICIAN(S) RECORD

ALL TREATMENT RECORDS    HIV RELATED TREATMENT

BEHAVIORAL HEALTH/PSYCHIATRIC TREATMENT RECORDS

DRUG & ALCOHOL TREATMENT RECORDS

(Disclosure of HIV related information is controlled by NY State Public Health Law. Disclosure of alcohol and drug abuse information is controlled by 42 C.F.R. part 2. Re-disclosure of such information is forbidden without your additional written authorization unless permitted under state or federal law.)

The purpose of disclosure is: (Circle one)

(Over)

**CITY OF ONEONTA**  
**Appendix "B" – FORM 2**

REQUEST OF THE INDIVIDUAL WHO IS THE SUBJECT OF THE RECORDS OR  
HIS/HER PERSONAL REPRESENTATIVE

OTHER (Describe) \_\_\_\_\_

THIS AUTHORIZATION MAY BE REVOKED BY WRITTEN REQUEST TO THE  
MEDICAL SERVICE PROVIDER'S PRIVACY OFFICER. INFORMATION DISCLOSED PRIOR TO RECEIPT OF THE  
REVOCATION MAY NOT BE RETRIEVED. IF ACTION WAS TAKEN RELIANCE ON THE AUTHORIZATION, THE  
PERSON WHO RELIED ON THE AUTHORIZATION MAY CONTINUE TO USE OR DISCLOSE PROTECTED HEALTH  
INFORMATIN AS NEEDED TO COMPLETE WORK THAT BEGAN BECAUSE THE AUTHORIZATION WAS GIVEN. TO  
REVOKE THIS AUTHORIZATION PLEASE WRITE TO:

This authorization expires on \_\_\_\_\_ or upon the following event: \_\_\_\_\_

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
PRINT NAME

\_\_\_\_\_  
DATE

\_\_\_\_\_  
DESCRIPTION OF PERSONAL REPRESENTATIVE'S AUTHORITY

YOU HAVE A RIGHT TO REFUSE TO SIGN THIS AUTHORIZATION. THE  
MEDICAL SERVICE PROVIDER MAY NOT CONDITION TREATMENT, PAYMENT,  
ENROLLMENT OR ELIGIBILITY FOR BENEFITS ON WHETHER YOU SIGN THIS  
AUTHORIZATION. IT IS UNDERSTOOD THAT INFORMATION USED OR  
DISCLOSED PURSUIT TO THIS AUTHORIZATION MAY BE RE-DISCLOSED BY  
THE RECIPIENT. INFORMATION DISCLOSED MAY NO LONGER BE  
PROTECTED BY THE FEDERAL PRIVACY RULES. YOU HAVE THE RIGHT TO  
RECEIVE A COPY OF THIS AUTHORIZATION AFTER YOU HAVE SIGNED IT.

New York State Policemen's &  
Firemen's Retirement System  
Governor Smith State Office Building  
Albany, New York 12244

To: The Comptroller of the State of New York

In compliance with Section 363 and Section 363-c of the Retirement Law instructing me to notify your department of any and all injuries sustained in the line of duty as a member of the City of Oneonta Fire Department, I hereby submit the following report:

\_\_\_\_\_  
Name of injured Firefighter                      Registration Number

\_\_\_\_\_  
Address

\_\_\_\_\_  
Date of incident                                      Time of incident

Description of injury \_\_\_\_\_  
\_\_\_\_\_

Medical care required \_\_\_\_\_  
\_\_\_\_\_

Remarks \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature of Firefighter

\_\_\_\_\_  
Witness to injury

\_\_\_\_\_  
Date

**Appendix "B"- FORM 4**

**Report of Exposure\***

Name:

Position/Rank:

Date of claimed exposure and NFIRS and PCR Nos. (if applicable):

Substance to which the firefighter claims to have been exposed:

Place (address) where claimed exposure took place:

Name of witnesses to exposure:

Was the exposure investigated?

By whom:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Firefighter

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Firefighter

\*This form is to be used by a firefighter to report a claimed exposure to hazardous substances. A copy of this report will be placed in the firefighter's personnel file.

## APPENDIX "C"

### **Calculation of Bi-Weekly Paychecks for the City of Oneonta Professional Firefighters Local 2408**

1. Determine which crew the employee will be working on.
2. Determine how many tours that crew will be working.
3. Multiply the number of tours by 24 hours. The employee will either work 2184 hours or 2208 hours per year.
4. Divide 2184 or 2208 hours by 365 or 366 days.
5. Multiply the quotient (resulting in step 4) by 14 days.
6. The product of number 5 will be the hours paid each bi-weekly full pay cycle.
7. The first and last pay cycle of each year will be based on the number of days in the cycle for such year multiplied by the quotient resulting from step 4.
8. The number of hours paid annually will be verified by adding the hours paid for the first and last cycle for that year and all the full pay cycles for that year. That total should equal either 2184 or 2208. Slight rounding may occur to arrive at 2184 or 2208 total hours.

#### **IF AN EMPLOYEE CHANGES CREWS**

1. If an employee changes crews, the total year-to-date hours paid will be compared to the number of total hours the employee will work during the year and adjusted accordingly.
2. The adjustment will be prorated over two pay periods, but in no event will the City not be made whole.

#### **IF AN EMPLOYEE LEAVES CITY EMPLOYMENT**

1. The total number of hours paid versus the total number of hours worked must be reconciled and the last paycheck will have to be adjusted accordingly.

**BASE WAGES**

	1/1/2012	1/1/2013	1/1/2014	1/1/2015
<b>Firefighters</b>				
1	\$ 32,557	\$ 33,208	\$ 33,872	\$ 34,719
2	\$ 35,317	\$ 36,023	\$ 36,743	\$ 37,662
3	\$ 39,731	\$ 40,526	\$ 41,337	\$ 42,370
4	\$ 44,146	\$ 45,029	\$ 45,930	\$ 47,078
5	\$ 44,146	\$ 45,029	\$ 45,930	\$ 47,078
6	\$ 44,146	\$ 45,029	\$ 45,930	\$ 47,078
7	\$ 44,146	\$ 45,029	\$ 45,930	\$ 47,078
8	\$ 46,354	\$ 47,281	\$ 48,227	\$ 49,433
9	\$ 46,354	\$ 47,281	\$ 48,227	\$ 49,433
10	\$ 47,457	\$ 48,406	\$ 49,374	\$ 50,608
11	\$ 47,457	\$ 48,406	\$ 49,374	\$ 50,608
12	\$ 48,561	\$ 49,532	\$ 50,523	\$ 51,786
13	\$ 48,561	\$ 49,532	\$ 50,523	\$ 51,786
14	\$ 49,665	\$ 50,658	\$ 51,671	\$ 52,963

Table represents a 1% increase for 2012, 2% increase for years 2013 and 2014, and 2.5% increase for 2015.

**Base Wages Hourly Rates:**

<b>Firefighters</b>				
1	\$ 14.91	\$ 15.21	\$ 15.51	\$ 15.90
2	\$ 16.17	\$ 16.49	\$ 16.82	\$ 17.24
3	\$ 18.19	\$ 18.56	\$ 18.93	\$ 19.40
4	\$ 20.21	\$ 20.62	\$ 21.03	\$ 21.56
5	\$ 20.21	\$ 20.62	\$ 21.03	\$ 21.56
6	\$ 20.21	\$ 20.62	\$ 21.03	\$ 21.56
7	\$ 20.21	\$ 20.62	\$ 21.03	\$ 21.56
8	\$ 21.22	\$ 21.65	\$ 22.08	\$ 22.63
9	\$ 21.22	\$ 21.65	\$ 22.08	\$ 22.63
10	\$ 21.73	\$ 22.16	\$ 22.61	\$ 23.17
11	\$ 21.73	\$ 22.16	\$ 22.61	\$ 23.17
12	\$ 22.23	\$ 22.68	\$ 23.13	\$ 23.71
13	\$ 22.23	\$ 22.68	\$ 23.13	\$ 23.71
14	\$ 22.74	\$ 23.20	\$ 23.66	\$ 24.25

**LONGEVITY**

**AFTER YEAR:                      HOURLY RATE:**

15	\$ 2,675	\$1.22
16	\$ 2,775	\$1.27
17	\$ 2,875	\$1.32
18	\$ 2,975	\$1.36
19	\$ 3,075	\$1.41

**BASE WAGES**

	1/1/2012	1/1/2013	1/1/2014	1/1/2015
<b>Captains</b>				
1	\$ 53,795	\$ 54,808	\$ 55,841	\$ 57,159
2	\$ 53,795	\$ 54,808	\$ 55,841	\$ 57,159
3	\$ 53,795	\$ 54,808	\$ 55,841	\$ 57,159
4	\$ 54,908	\$ 56,006	\$ 57,126	\$ 58,554
T.DiMartin	\$ 57,065	\$ 58,206	\$ 59,370	\$ 60,854

**Base Wages Hourly Rates:**

<b>Captains</b>				
1	\$ 24.63	\$ 25.10	\$ 25.57	\$ 26.17
2	\$ 24.63	\$ 25.10	\$ 25.57	\$ 26.17
3	\$ 24.63	\$ 25.10	\$ 25.57	\$ 26.17
4	\$ 25.14	\$ 25.64	\$ 26.16	\$ 26.81
T.DiMartin	\$ 26.13	\$ 26.65	\$ 27.18	\$ 27.86

**LONGEVITY**

AFTER YEAR:	HOURLY RATE:
5	\$ 700 \$ 0.32
6	\$ 800 \$ 0.37
7	\$ 900 \$ 0.41
8	\$ 1,000 \$ 0.46
9	\$ 1,100 \$ 0.50
10	\$ 1,675 \$ 0.77
11	\$ 1,775 \$ 0.81
12	\$ 1,875 \$ 0.86
13	\$ 1,975 \$ 0.90
14	\$ 2,075 \$ 0.95
15	\$ 2,675 \$ 1.22
16	\$ 2,775 \$ 1.27
17	\$ 2,875 \$ 1.32
18	\$ 2,975 \$ 1.36
19	\$ 3,075 \$ 1.41

