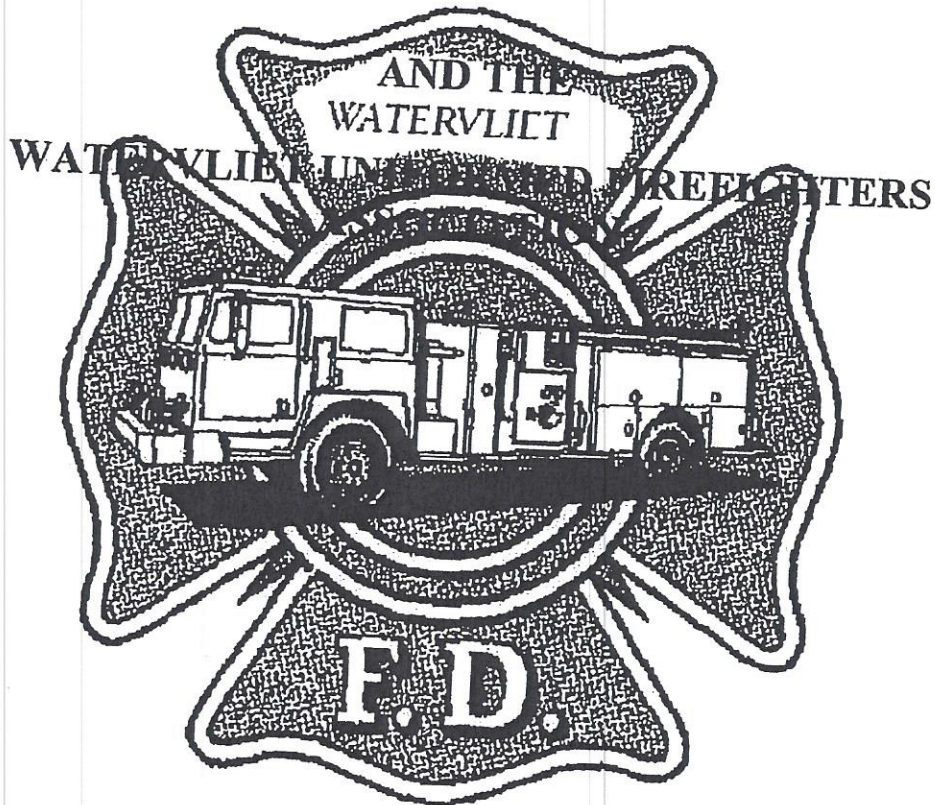


**AGREEMENT BETWEEN THE  
CITY OF WATERVLIET, NEW YORK  
AND THE WATERVLIET UNIFORMED FIREFIGHTERS  
ASSOCIATION**



**LOCAL 590, IAFF, AFL-CIO**

**JANUARY 1, 2019 THROUGH DECEMBER 31, 2022**

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By this Agreement entered into this 24<sup>th</sup> day of December, 2019 between the City of Watervliet, New York hereinafter designated as the City and the Uniformed Firefighters Association of Watervliet, New York, Local 590, IAFF, AFL-CIO, Watervliet, New York, hereinafter designated as the Association.

**THE PARTIES HERETO DO MUTUALLY AGREE:**

That in accordance with appropriate statutes of the State of New York, for the purpose of providing for the equality of opportunity and for parity for members of the Association, with the statute, rights and privileges of other professional forces providing public safety to the residents of the City, the following terms and provisions shall govern during the effective dates of this Agreement.

**ARTICLE I  
ASSOCIATION RECOGNITION**

1. The City recognizes the Association as the bargaining agent for all members of the Fire Department of said City from and after January 1, 1979.
2. The City recognizes the obligation of employees who are, or hereafter become, members of the bargaining unit, to pay dues to said Association, and the City agrees to deduct such dues from the wages of all Association Members who appear on the payroll of the City and to forward such dues, together with a list of employees for whom such deductions are made, to the Association Treasurer. Such dues deduction shall be made weekly in the case of employees paid weekly, bi-weekly in the case of employees paid biweekly, semimonthly in the case of employees paid semimonthly, and monthly in the case of employees paid monthly. The City shall not deduct and forward to the Association, from the salaries of members of the Fire Department who are not members of the Association, an amount equal to the membership dues in said Association together with a list of employees for whom such deduction is made unless allowed by law.
3. The current payroll deductions procedure will be continued.

**ARTICLE II  
ECONOMIC BENEFITS AND WORKING CONDITIONS**

1. If, at any time during the term of this Agreement, any salary or economic benefit provided for herein shall be, by statute of the State of New York, increased so that such salary or economic benefit is more favorable to the membership of the bargaining unit herein than such similar provision hereof, said additional and/or greater benefit, as provided for by said statute, shall become a term and provision of this Agreement;

"salary or economic benefit" is defined, for purposes of this paragraph only, as salary or remuneration, retirement benefits or contributions, clothing allowances and hospitalization, health and/or accident, and life insurance.

2. Effective January 1, 2019 to December 31, 2022, the annual base salaries shall be:

**BASE SALARY**

RATING	YEARS OF SERVICE	1/1/19 1%	1/1/20 1.5%	1/1/21 2%	1/1/22 2%
FIREFIGHTER	0-1 Years	\$43,852	\$44,510	\$45,400	\$46,308
FIREFIGHTER	1-2 Years	\$57,333	\$58,193	\$59,357	\$60,544
FIREFIGHTER	2-4 Years	\$60,088	\$60,989	\$62,209	\$63,453
FIREFIGHTER	4-6 Years	\$62,846	\$63,789	\$65,065	\$66,366
FIREFIGHTER	6+ Years	\$65,609	\$66,593	\$67,925	\$69,283
LIEUTENANT	0-4 Years	\$67,689	\$68,704	\$70,078	\$71,479
LIEUTENANT	5 Years	\$68,266	\$69,290	\$70,676	\$72,089
CAPTAIN	0-4 Years	\$68,791	\$69,823	\$71,219	\$72,643
CAPTAIN	5 Years	\$69,939	\$70,988	\$72,408	\$73,856

The above increases in base salary shall be fully retroactive to January 1, 2019 for all calculation purposes and shall be paid to bargaining unit members within sixty (60) days of ratification by both parties.

The current rank differentials of Lieutenant (0-4 Years) – 3.17% above Firefighter top step, Lieutenant (5 Years) – 4.05% above Firefighter top step, Captain (0-4 Years) – 4.85% above Firefighter top step and Captain (5 Years) – 6.6% above Firefighter top step shall be utilized to calculate the base salary of Lieutenant (0-4 Years), Lieutenant (5 Years), Captain (0-4 Years) and Captain (5 Years).

**If all other City unions agree to a bi-weekly pay schedule, the City may pay members bi-weekly.**

In the event a Lieutenant is promoted to Captain before reaching his/her 5 year anniversary date as Lieutenant, the member shall be credited his/her years of service as a Lieutenant to his/her years of service as a Captain to reach the 5 years anniversary date as a Captain. In the event this occurs, the member shall only receive the \$1,000.00 payment as a Captain.

3. **Longevity:** Members of the bargaining unit shall receive an additional One Hundred Fifty Dollars (\$150.00) annually for each year of service commencing upon

the member's fifth (5th) year anniversary date. This longevity payment shall be fully retroactive to January 1, 2019 for all calculation purposes.

4. **Holiday:** (a) Members of the bargaining unit shall be entitled to be paid at the rate of eight (8) hours for each of the following Holidays:

NON-VETERANS:	New Year's Day	Labor Day
	Lincoln's Birthday	Columbus Day
	Washington's Birthday	Election Day
	Memorial Day	Thanksgiving Day
	Independence Day	Christmas Day
	Martin Luther King Day	Easter
	Floater (June 30 <sup>th</sup> )	

VETERANS: the above listed Holidays plus Veterans Day. **Veterans** are those defined by the Laws of the State of New York. If a Veteran is scheduled to work on Veterans Day, that member will have the option to take that day off or work on Veterans Day and take another day off. This other day will be taken off under the rules of a vacation day, but cannot be carried over. To take advantage of this option, the member must work twenty-four (24) hours on Veterans Day. Whichever option is chosen, that member will still receive eight (8) hours of Holiday pay

Such payment shall be made once annually for all such Holidays in the first pay period in December. In addition, members of the bargaining unit will be granted a Holiday whenever the Mayor grants a Holiday to City employees generally.

(b) Time will be limited to two (2) members off on the calendar day before, the day of, and the day after, a holiday. Members on injury or sick leave or a vacancy based on the City's failure to fill the vacancy, will not count. Calling in sick on the calendar day before, the day of or the day after a holiday will result in the member forfeiting their eight (8) hours' holiday pay.

5. **Personal Leave:** Effective January 1, 2019, each member of the bargaining unit shall receive forty-eight (48) hours of Personal Leave annually to be used in minimum blocks of four (4) hours. In the first and last year of employment personal leave shall be prorated on a per month basis. In the first and last year of employment, an employee may take personal leave in blocks of less than four (4) hours.

6. **Sick Leave** (a) shall be given to members of the bargaining unit in accordance with the provisions of Local Law No. 1 of 1972 of the City, and amendments and revisions thereof. The time off granted for Sick Leave may be increased by adoption of a further Local Law by the City, but shall not be diminished from the time fixed upon the effective date of this Agreement. Sick leave may be taken in four (4) hour increments. A minimum

of thirty (30) minutes advance notice must be given for sick leave to be granted at the beginning of the member's shift.

(b) If the member wishes to use more than twenty-eight (28) hours of sick leave in a calendar month, he/she must provide a note from his/her doctor. If the member wishes to use more than two (2), four (4) hour blocks of sick leave in a calendar month, he/she must provide a note from his/her doctor.

(c) Members who have accumulated a sick time balance of 1,000 hours or more will have a holiday sick time waiver allowing them to use sick time on a holiday or the day before or after a holiday.

(d) Any member who is out on long term sick (thirty days or more) will have a holiday sick waiver allowing them to use sick time on a holiday or the day before or after a holiday.

7. **Vacation:** Vacations shall be picked on each platoon by departmental seniority from date of hire. Members will have until February 1<sup>st</sup> to pick vacation days by seniority. After that, vacation days will be assigned on a "first request" basis. A member may select a vacation day as long as twenty-four (24) hours' notice is given and as long as no other shift member is on vacation. (The shift commander does not count). Each member shall receive:

Ninety-six (96) hours of Vacation after one year's satisfactory service.

One hundred and twenty (120) hours of Vacation after three (3) years satisfactory service.

One hundred and sixty-eight (168) hours of Vacation after twelve (12) years satisfactory service.

A member may request carryover of one (1) week of Vacation from the normal Vacation period to be used during the following year. The request to carryover is to be presented to the Fire Chief and is subject to approval or denial by the Chief. Vacation time may be used in increments of twenty-four (24) hours or more.

8. **Separation Pay:** Pursuant to a Local Law adopted by the City, in the event that a member of the bargaining unit dies while in the employment of the City, or retires under normal circumstances or by reason of disability, the monetary value of accrued Holiday pay and unused Vacation time shall be paid to the beneficiary designated by him/her for retirement purposes, or to such retired member, the value thereof to be computed in accordance with the annual pay then being received by such deceased employee.

9. **Out-of-Title:** Any member of the bargaining unit assigned by competent

authority to perform duties "Out-Of-Title" in a rank higher than his/her permanent rank, shall be compensated therefore on a per diem basis which shall reflect the differential between his/her regular pay and the pay which would be received in the higher job title. Any member who shall become disabled during said "out-of-title" duties shall be paid, during such period of disability, at the higher rate of pay designated for such "out-of-title" duties.

10. **Bereavement:** Members of the bargaining unit shall be entitled to four (4) calendar days off, with pay, due to a death of a member's immediate family. The bereavement leave will be taken at the discretion of the member on the day or after the date of death but in no event will the leave extend beyond one (1) week after the date of death. If the member is on-duty when notified of the death of an immediate family member, he or she shall be relieved of duty without loss of pay or leave time. The member's immediate family shall include: spouse; natural, foster or step-parent; natural, foster or step-child; grandparents; brother or sister; father-in-law or mother-in-law; or any blood relative residing in the member's household. One working day, which day shall be the day of the funeral, shall be granted to each member of the bargaining unit for the death of a brother-in-law, sister-in-law, or other relative outside of the member's immediate family.

11. **Health Insurance:** The present health insurance shall continue in force. Current health insurance options include: Blue Shield of Northeast New York POS. The City shall continue to pay one hundred percent (100%) of the cost for each member of the bargaining unit and his/her dependents who were employed prior to January 1, 1995. Any member of the bargaining unit appointed as a firefighter after January 1, 1995 shall pay part of their health insurance costs through payroll deduction pursuant to the following schedule:

First Year of Service	1 <sup>st</sup> – 12 <sup>th</sup> month	30% of costs
Second Year of Service	13 <sup>th</sup> – 24 <sup>th</sup> month	30% of costs
Third Year of Service	25 <sup>th</sup> – 36 <sup>th</sup> month	30% of costs
Fourth Year of Service	37 <sup>th</sup> – 48 <sup>th</sup> month	30% of costs
Fifth Year of Service	49 <sup>th</sup> – 60 <sup>th</sup> month	30 % of costs

After 60<sup>th</sup> month of service City pays 100% of Health Insurance costs

Employees hired on or after July 1, 2004 shall, together with their dependents, have the same benefits under this section as present employees except they shall contribute ten percent (10%) of the premium costs for individual and for dependent coverage throughout their employment with the City and throughout their retirement.

For employees who are currently employed by the fire department prior to July 1, 2004, the City will pay 100% of their health insurance costs during their employment and retirement provided they have fulfilled the 30% health insurance contribution as described in the existing contract.

Employees hired on or after January 1, 2013 shall, together with their dependents, have the same benefits under this section as present employees except that they shall contribute fifteen (15%) of the premium costs for either individual or dependent coverage for the first five (5) years of their employment. After five (5) years of employment, the employee shall contribute ten (10%) of the premium costs for either individual or dependent coverage throughout their employment with the City and through their retirement.

Employees hired after January 1, 2019, shall together with their dependents, have the same coverage and benefits under this section as present employees except they shall contribute twenty percent (20%) of the premium costs for individual and/or dependent coverage, throughout their employment with the City and throughout their retirement.

If an employee, who has retired, moves out of the State of New York and establishes permanent residency outside of the State of New York, and said employee elects to obtain out of state health insurance coverage, the City shall only pay the premium costs for either individual or dependent coverage of the out of state health insurance plan up to the amount of the premium costs minus the employees percentage of contribution for either individual or dependent coverage of the Capital District Health Insurance Plan in effect at that time. If the premium costs for either individual or dependent coverage of the out of state health insurance plan are greater than the premium costs for either individual or dependent coverage of the Capital District Health Insurance Plan, then the employee is responsible for and shall pay for the difference. (Example: If the NYS CDPHP family plan premium is \$12,000.00 in a particular year and an employee, who has retired, moves to Florida and obtains family coverage in said State, the cost of which is \$15,000.00, the City shall only pay \$12,000.00 for the cost of said premium minus the employee's percentage of contribution. The additional monies shall be paid by the employee). If the out of state premium for either individual or dependent coverage is less than the NYS CDPHP premium, the City will not deduct the employee's percentage of contribution.

The City reserves the right to change or provide alternate insurance plans or carriers or to self-insure if it deems appropriate for any form or portion of the health and prescription drug coverage referred to in this agreement so long as the new coverage benefits are substantially equivalent when viewed as a whole to the programs existing at the time of such change. The City agrees to consult with the Union prior to any such change. The November 23, 2016 memo of Jeremy Smith (City Benefits Administrator) which is attached hereto as **Exhibit "D"** is fully incorporated herein.

**Health Insurance Buyout:** Before beginning each calendar year, an employee may elect to discontinue Health Insurance Coverage for said year and elect to be covered under his/her spouse's Health Insurance Coverage. If the employee chooses to participate in the Health Insurance Buyout Program, the following will occur.

Except as provided herein and effective January 1, 2019, any member who elects not to receive health insurance through the City shall be paid an amount equal to thirty percent (30%) of the cost of either individual or dependent coverage, as appropriate (i.e., the plan

that he/she is eligible for – individual, individual +1, family, etc.), of the health insurance plan in a lump sum payment to be paid on or before December 7<sup>th</sup> of each year. However, those members who, as of January 1, 2019, elect not to receive health insurance through the City shall be paid an amount equal to the greater of \$9,000 and thirty percent (30%) of the cost of either individual or dependent coverage, as appropriate (i.e., the plan that he/she is eligible for – individual, individual +1, family, etc.), of the health insurance plan in a lump sum payment to be paid on or before December 7 of each year. If any such employee opts back into health insurance coverage through the City and thereafter decides to opt back out, said employee shall be entitled to be paid the sum of thirty percent (30%) for each year in lieu of health insurance coverage.

The employee will have the option of reactivating his/her health insurance coverage for the forthcoming year by notifying the City in writing on or before September 15 of each year. The reactivation will begin on January 1. If the health insurance coverage of the employee's spouse terminates or fails to cover the employee for any reason during a year in which the employee elects to participate in the health insurance buyout program, the employee will notify the City in writing immediately and the City will reactivate the employee's City health insurance coverage. Health insurance buyout payments will be made on a prorated basis during December.

12. **Recall:** (a) The City will provide all payments and benefits specified in this Agreement to and for the protection of any member of the bargaining unit who, when off duty, shall be recalled to duty and the City shall cause a departmental order to be made specifying the authority by which a member can be recalled to duty. Any member recalled hereunder shall be paid at the rate of one and one-half times his/her usual hourly rate of salary, and shall be paid for a minimum of four (4) hours of recall duty.

(b) Any member who, voluntarily and without a recall order, reports to the scene of a fire or other department work, and whose services are accepted by the officer in charge, shall thereafter receive compensatory time off upon his/her request and approval of such request by the Fire Chief.

13. **Uniform Allowance:** (a) Effective January 1, 2018, the clothing allowance payment shall be \$700.00 annually. Members must adhere to a dress code to be established jointly by the Fire Chief and the UFFA. The annual uniform allowance will be paid in a separate check on or before the second week of February each year.

The following uniforms and equipment shall be furnished and replaced by the City, and shall not be charged against said uniform allowance: boots, helmets, badges, uniform cap, and all other equipment and uniforms intended solely and directly for use in fighting fires. All uniforms and equipment furnished by the City, as aforesaid, shall be safe and adequate for use in accordance with recognized and reasonable safety standards. Clothing damaged in the performance of duty will be replaced by the City.

Exception: Association membership shall be responsible for the replacement cost of

lost, damaged and/or destroyed departmental issued property under the following circumstances:

1. The member lost, damaged or destroyed departmental property due to his/her intentional misconduct or gross negligence.
2. The replacement cost of used equipment shall be prorated taking into account its age and condition.
3. The total replacement cost chargeable to the member is \$500 or less.

All disputes concerning the above shall be referred to an arbitrator selected pursuant to PERB's rules concerning voluntary arbitration. The arbitrator will make a final and binding determination. The cost of the arbitrator will be split between the parties.

Nothing in this exception shall preclude the City from processing disciplinary charges pursuant to Article VII, Discipline.

(b) The City will furnish, at the expense of the taxpayers, one complete dress uniform to each member of the bargaining unit within thirty (30) calendar days of being hired. If the member leaves the WFD within one (1) year of date of hire, the member will reimburse the City for the cost of the uniform. New members of the bargaining unit will receive the customary clothing allowance during the year following appointment, if the date of appointment falls between January 1st and June 30th. Members, whose date of appointment occurred on or between July 1st and December 31st, will not receive a clothing allowance in the following year.

(c) A member of the bargaining unit who retires during the period January 1st to June 30th will not receive the annual clothing allowance.

(d) Permanently promoted employees will receive a dress uniform, purchased solely at the expense of the City, and within 30 days after the promotion.

14. **Retirement:** The City will provide and maintain a non-contributory Retirement Plan for members of the bargaining unit pursuant to the appropriate provisions of Section 384 and/or 384-D of the Retirement and Social Security Law of the State of New York, relating to the New York State Policemen's and Firemen's Retirement System by which such members may elect to retire after twenty (20) or twenty-five (25) years of service. Employees hired after January 1, 2013 will be placed in the current defined benefit contribution retirement plan offered by the NYS Retirement System. (Currently Tier VI).

15. **Deferred Compensation Plan:** Members of the Bargaining Unit are hereby permitted to participate in the deferred compensation plan (Nationwide Retirement Solutions) currently active.

16. **Insurance:** (a) The City will assume and pay premiums on Life Insurance policies now held by members of the bargaining unit, or hereafter acquired by new members of the bargaining unit. The total annual payment made to the Association will be \$2,000.00 per year.

(b) The City shall provide and maintain insurance coverage pursuant to Section 360-B of the Retirement and Social Security Law of the State of New York for each member of the bargaining unit.

(c) Payroll deduction for Metropolitan annuities and mutual funds shall be available.

17. (a) The City shall have eight (8) shift officers consisting of four (4) Lieutenants and four (4) Captains. This provision shall not require that two (2) officers be working at all times. This provision shall remain in effect unless both parties mutually agree upon a successor provision.

(b) If an opening occurs in an officer's position (Captain and Lieutenant), the City must promote/appoint an officer within 45 days. A newly appointed officer will be assigned to work a minimum of five (5) tours of duty with a higher ranking officer before being permitted to work as the sole officer on a shift.

18. The City shall make available parking space for eight (8) vehicles in an area adjacent to the Firehouse for the use of members of the bargaining unit.

19. The City shall establish minimum safety standards for Fire Department vehicles consistent with New York State and comparable standards for such vehicles, shall maintain said vehicles in accordance with such standards, and shall have vehicles inspected at least annually to ensure that such standards are complied with.

20. The permanent work schedule for members of the Fire Department of the City shall be that attached hereto marked **Exhibit "A"** and made a part hereof.

21. **Eye Glasses:** Each member shall be entitled to receive a total of \$175.00 per year for eyeglasses and eye examinations for themselves and their dependents. During the first and last year of employment this payment shall be prorated. Payment shall be based on actual expenses incurred up to the maximum amount allowed.

22. **EMT:** Each member who satisfactorily has completed the prescribed course for Emergency Medical Technician, or Paramedic shall be paid in accordance with the following schedule:

PAY SCHEDULE

	<b>2017-2018</b>
EMT-B	\$2,150
EMT-P	\$4,800

EMT – No stipend for newly hired EMT commencing in 2009.

(a) To receive a stipend for EMT-P, an individual must be able to perform this function and must also be approved by the medical director of the City of Watervliet. The Medical Director of the City of Watervliet retains the discretion to prevent the above-mentioned from performing these services.

For re-certification or certification purposes, a stipend shall be paid for said certification or re-certification in accordance with the following schedule:

EMT-B	\$500
EMT-P	\$1,500

Paramedic Longevity: Effective 1/1/13, Paramedics will receive an additional annual stipend of \$50 for each year after ten (10) continuous years of service. This provision shall not apply retroactively.

- (A) The City reserves the right to determine the number of paramedics assigned to the Department. Subject to applicable laws, the City reserves the right to determine how ALS shall be provided to the residents of Watervliet.
- (B) Anyone hired after Jan. 1<sup>st</sup> 2003 can be made a paramedic and retain certification for ten (10) years. If for any reason a member does not get or retain that certification that member would be reduced in pay to the FF 1-2 years of service step until the certification is attained, and if he/she chooses not to attend paramedic school, this penalty is immediate. The member would also be ineligible to take a promotional exam or receive a provisional appointment. No member can be required to go to paramedic school in the first year of employment. The City will have from the end of the first year until the end of the seventh year to require a member to go. After seven (7) years of service a member cannot be required to be a paramedic. Anyone hired after Jan. 1<sup>st</sup> 2008 can be required to go from the end of year one (1) until the end of year ten (10). If a member is required to go to paramedic school that member and the Union President will be notified, in writing, at least forty-five (45) days before class begins. The City will pay for one (1) full paramedic class and one (1) paramedic refresher class, if needed. After that it is the employee's responsibility to pay any costs associated with getting certification. Release time will be given for any ride time, hospital time and any other time needed

for school. If a member needs a second full class release time will be given only for actual time to go to classes. After this second full class, the financial penalty will take effect. If he/she chooses not to attend Paramedic Class, the financial penalty is immediate.

- (C) HVCC: The schedule will be: First Semester: Tues.-Fri. will amount to approximately twenty-one (21) hours of class and lab time. (OPERATIONS NOT INCLUDED) The member will then work their regular twenty four (24) hour shift Sat.-Mon.

Second Semester: Tues.-Fri. will amount to approximately twenty seven (27) hours of class and lab time. The member will then work his/her (24) shift, Sat.-Mon.

If hours change, the Chief and union president will have the authority to come up with a fair and equitable solution for both sides.

- (D) The City shall grant release time to those employees who seek re-certification. The stipend is in place in lieu of overtime for certification and re-certification.
- (E) If a current employee desires to become a paramedic the City will make a determination based on need and a screening process. Seniority will be considered.

All members of the bargaining unit must maintain an Emergency Medical Technician Certification through his/her employment. The City, as it deems necessary, will provide in service E.M.T. recertification training. The unit member is required to recertify pursuant to the law, and the unit member is required to put forth a best effort to successfully pass said recertification tests and requirements. If the unit member fails to recertify in the required manner, the member shall present himself/herself to take the standard Emergency Medical Technician Course again at the member's own expense and during hours other than those scheduled for work. Failure to maintain EMT certification will result in reduction of pay to the Firefighter 1-2 years of service step until the certification is attained. The member will get one refresher class before financial penalty takes effect.

PALS, ACLS and CPR instructors will be paid overtime when teaching members of the WFD.

23. **Code Enforcement:** The Watervliet Fire Department will assign two (2) firefighter positions to assist with code enforcement. Each position will be paid an additional \$500 annually. Filling of these positions will be based on: (1) qualification, (2)

bidding and (3) seniority in that order.

24. **Leave of Absence:** A member of the bargaining unit may apply for an unpaid leave of absence of no more than one (1) year. Approval or disapproval by the employer will be determined by the same procedures applied to requests made by members of all other bargaining units.

25. The City agrees to continue its long standing policy of replacing or repairing personal items destroyed or damaged in the performance of firefighting while on duty with the Watervliet Fire Department. A maximum of \$200.00 shall be paid for the loss or damage of personal items per occurrence. Personal items that are damaged are to be paid within 30 days of submission of claim.

26. **Shift Bid:** There shall be a shift bid based on seniority every two (2) years. The bid shall be held in November. The initial bid process must be completed by November 30<sup>th</sup>. The bidding order noted below shall be followed:

Captains	First
Lieutenants	Second
Firefighters	Third

There must be at least two (2) paramedics per shift for this bidding process and the number of paramedics assigned to each shift will be equal to the extent possible. The City shall not be responsible to pay overtime for anyone working more hours in the first week of the new year, because of shift changes associated with the bidding process. In the event that the City determines that the shift selection is not in the best interest of public safety, the City shall require a re-bid. The City shall provide written notice to the Union President so that a new bid can take place immediately. The notice shall provide an explanation as to the reasons a new shift bid is required.

If a vacancy occurs the City may fill said vacancy with a new employee or a newly promoted officer.

27. **Fitness Test Compensation:** Each member who successfully passes an annual Fitness Test or other agility test agreed upon between the City and UFFA will receive \$500.00 annually. Payment will be made within 30 days after successfully passing the test. Participation in the Fitness Test or similar agility test by the member is voluntary.

The Fitness Test will consist of the following:

- Stepper 3 minutes 20 second with vest
- Hose Pull
- Tool Carry-40 lbs. in each hand
- Sled Pull-80 lbs. then vest off before Ladder Raise
- Ladder Raise

Pull Downs- 85 lbs. x 10  
10 pushups in a minute  
Bike 1.7 miles

The Fitness Test Time is as follows:

30 and under – 12:30  
31-40 – 13 minutes  
41 and up – 13:30

28. **Military Leave:** In addition to any pay or benefits the military may provide, for the first 30 calendar days, the member will receive full pay. After 30 days, the City will pay the difference between the military rate of pay and the member's regular rate of pay. Upon return from service, the member will receive 15 calendar days off with pay.

29. **Jury Duty:** Release time will be granted with full pay to a member on jury duty. When jury duty has concluded for the day, the member will return to work; otherwise, he/she will be on authorized leave without pay for the remainder of the day.

30. **Preceptor Pay:** Increase of \$1.00 per hour.

### ARTICLE III ASSOCIATION REPRESENTATIVES AND RELEASED TIME

1. The City and the bargaining agent shall mutually arrange for four stewards, members of the bargaining unit, one steward per platoon, whose names shall be filed with the Mayor of the City. Said stewards shall be entitled to use time, not to exceed one hour of each working day, to perform their duties for the bargaining agent, provided, however, that said stewards shall not leave the Firehouse to which assigned unless it is adequately manned to permit such absence. Permission therefore shall not be unreasonably withheld by the city or any department officer.

2. The bargaining agent may use City bulletin and notice boards in Firehouses for the purpose of posting bargaining agent notices to members of the bargaining unit, provided that such notices shall be clearly identified as those of the bargaining agent.

3. The City shall give released time to not more than four (4) members of the bargaining unit, to serve as members of the negotiation committee with pay, in an amount sufficient to allow for the proper and reasonable negotiation of this Agreement or modifications or successor Agreements thereto. Said members shall be selected by the bargaining agent.

4. (a) The Union President will receive forty (40) hours of release time annually to represent the Union at various events. This time must be used in a minimum of

four (4) hour blocks. This release time will not be used during the NYSPFFA convention.

(b) The City shall grant release time to not more than two (2) members of the bargaining unit for attendances at the NYSPFFA Convention up to a maximum of seventy-two (72) hours. Also release time shall be granted for attendance at the NYSPFFA Health and Safety Conference for two (2) members, with a maximum of forty-eight (48) hours of release time for each conference. Release time shall be granted for four (4) Third District Union meetings that occur quarterly. The union agrees that for these meetings and conferences that, if two (2) members opt to attend from the same shift, only one (1) member shall be granted release time. The other must use some other form of appropriate leave. The union shall inform the Chief who said release time, in this event, shall be granted to.

5. (a) The City shall give released time, with pay, to members of the bargaining unit for attendance at firefighting training presentations and courses, except college-level courses, directly related to and part of the duties of members of the Department. Such released time shall be subject to approval by the City Fire Chief as to the purpose and value of the presentation, and as to adequate manpower during such absences. Upon satisfactory completion of such course, the City shall reimburse such member for the tuition paid for such course. No member shall receive benefits pursuant to this sub-paragraph if he/she shall also receive benefits under sub-paragraph 5(b) hereof, except pursuant to sub-paragraph 5(c) hereof.

(b) The City will institute in the Department a "FireFighters College Incentive Program" during the term of this Agreement, which said program shall be as follows:

(1) This "FireFighters College Incentive Program" shall pay an additional \$5.00 annually for each credit hour earned, to any member of the bargaining unit who attends an accredited college or institution for the purpose of attaining an Associate Degree in Fire Science - requiring sixty (60) credits - to a maximum of \$300.00 additional annually, or attaining a B.S. or B.A. Degree - requiring one hundred and twenty (120) credits - to a maximum of \$600.00 additional annually.

(2) Before any member who wishes to receive this pay incentive enrolls in any college course, he/she shall submit to the Fire Chief, or the Chief's designee, a list of the courses he/she proposes to take. The Fire Chief, of his/her designee, for the purpose of this incentive program, shall determine those specific courses which are beneficial and applicable to the firefighting profession, and which qualify for the additional pay under this program.

(3) When a member presents such proof of certification as may be necessary to the Chief, or his/her designee, to verify the satisfactory completion of said course with a grade of "C" or higher, then the member shall be eligible to receive the aforementioned \$5.00 per year per credit hour. The computation and payment for said credits shall be made in January of each year during the term of this

Agreement. Courses completed after the last day of January shall be computed and paid for the following year, and there shall be no pro-ration of payments for credits earned subsequent to the last day of January as aforementioned.

(4) No member shall receive benefits pursuant to this sub-paragraph if he/she shall also receive benefits under sub-paragraph A hereof, except pursuant to sub-paragraph C hereof.

(c) In the event that the City shall determine that it is desirable for a member to attend a college course directly related to his/her duties as a member of the Department, the City may waive the prohibitions set forth in sub-paragraphs A and B hereof, so that upon satisfactory completion of such course, the member may be both reimbursed for tuition and granted the additional remuneration provided in sub-paragraph 5 B hereof. Such waiver, and permission to take such course, shall be given to the member in advance of the commencement of the course in writing by the Fire Chief and the General Manager of the City.

#### **ARTICLE IV SENIORITY AND TRANSFER**

1. Seniority shall be fixed as follows: FireFighter, from the date of first appointment to the Fire Department of the City; Captain and Lieutenant from the date of promotion to said rank.

2. Applications for transfer shall be considered by the Chief of the Fire Department, who shall consider such applications upon the basis of seniority, suitability and the time of the making of such request.

3. Layoffs of FireFighters shall be in reverse order of seniority; layoffs of officers will also be in reverse order of seniority. Each rank - FireFighters, Lieutenant and Captain - shall comprise a separate group for determination of seniority for the purpose of layoffs. Members laid off will be returned to work before new men are hired.

#### **ARTICLE V GRIEVANCE PROCEDURE**

##### **1. GENERAL**

A. When a member or the Association, collectively, has a grievance against the City, it shall be processed in accordance with the Grievance Procedure hereinafter provided.

B. The parties shall make a sincere and determined effort to settle meritorious grievances in the voluntary steps of the Grievance Procedure and to keep the procedure

free of unmeritorious grievances.

C. Any grievance that either is not processed within a reasonable time or is disposed of in accordance with this Grievance Procedure shall be considered settled, and such settlement shall be final and binding upon the City, the member or members involved, the Association and its members.

D. Except with respect to the right to present an individual grievance, as expressly set forth in this Article, the Association shall, in the redress of grievances, be the exclusive representative of the interests of each member or group of members covered by this Agreement, and only the Association shall have the right to assert and press against the City any such grievance.

## **2. FIRST STAGE GRIEVANCES**

A. A member believing he/she has cause for grievance may, at his/her option, discuss the matter directly with his/her immediate supervisor or may take it up with his/her Association Grievance Committee, which shall discuss the grievance with the member's immediate supervisor. Recognizing the value and importance of full discussion in clearing up misunderstandings and preserving harmonious relations, every reasonable effort shall be made to settle problems promptly at this point through discussion.

B. If the matter is not disposed of in this discussion with the supervisor within forty- eight (48) hours, the grievance shall be reduced to writing, and shall set forth all the facts relied on and shall be presented in triplicate to the Fire Chief. The written grievance shall be presented to the Fire Chief within ten (10) calendar days of when the grievance occurred or when the Association President or his/her designee had actual knowledge of the occurrence of the grievance, whichever occurred last.

C. The Fire Chief's determination shall be in writing, setting forth in detail all the facts relied upon in support of his/her disposition, and shall be made as expeditiously as possible, consistent with proper investigation, but in no event more than seven (7) working days from the time of written presentation, and shall be returned by the Fire Chief to the Association Grievance Committee which presented it.

D. If the Fire Chiefs determination on a grievance is not given within the time limits herein provided, the grievance may be appealed directly to the Third Stage of Grievance Procedure.

E. If the determination by the Fire Chief is not satisfactory to the Association Grievance Committee, it shall prepare a written report setting forth its complete investigation of the facts in rebuttal of the Fire Chief's statement of facts and determination, and shall refer this report with the grievance in writing to Second Stage Grievance.

### **3. SECOND STAGE GRIEVANCES**

A. The Association Committee shall, within one week of the preceding determination, present the report and grievance in writing to the General Manager.

B. The General Manager shall give his/her decision in writing not later than seven (7) days after the grievance has been submitted to him/her.

### **4. THIRD STAGE GRIEVANCES**

A. If the decision of the General Manager is not satisfactory to the Association Grievance Committee, it shall, within seven (7) days after receipt thereof, submit a Demand For Voluntary Arbitration to the Public Employment Relations Board (PERB).

B. An arbitrator shall be selected in accordance with PERB's rules.

C. The arbitrator shall have the power to hold hearings, take evidence and issue a decision which shall be final and binding on the parties; said decision may include a direction as to the payment of costs, by a party. If so, such payment shall be made in the amount thereof.

D. The cost of the service of the Arbitrator shall be borne equally by the City and the Association.

E. Transcripts of hearings conducted by the Arbitrator shall be purchased and paid for by the party desiring same.

## **ARTICLE VI**

### **OVERTIME AGREEMENT AND COMPENSATORY TIME PROCEDURE**

A. Overtime will be distributed by seniority on a shift to shift basis. The senior person on each shift will be up first for any shift overtime. Shift Overtime will work where the 1<sup>st</sup> platoon covers the 2<sup>nd</sup> platoon, 2<sup>nd</sup> platoon covers 3<sup>rd</sup>, 3<sup>rd</sup> covers 4<sup>th</sup>, 4<sup>th</sup> covers 1<sup>st</sup>. This will also be the case where a full shift recall is needed. Any individual recalls will be done by department wide seniority. For this entire policy seniority is defined by date of hire to the Watervliet Fire Department.

If a person was to get 275 hours of overtime in one (1) year (Jan.-Dec.) that person would then go to the bottom of the list for individual recalls and be last in the department for shift Overtime until Jan. 1<sup>st</sup>. If an entire group of people (Officers, Paramedics, etc.) were to reach 275 hrs. shift Overtime would then be covered by low hrs. Overtime extras such as grants, codes, teaching, fire investigation, as well as, overtime resulting from recall will not be applied to the members overtime total going towards 275 hours.

Any Overtime over 12 hours will be split evenly. If two (2) or more overtime slots are available first person up will be given the choice of which one they want. Shift overtime will be filled by members of the off going shift that are there at 8 a.m. Refusals will only count for shift overtime, NOT recalls. Any overtime a person is paid for will count towards the 275 hours.

B. Employees will have the option of choosing compensatory for overtime hours worked, either as payment at time and a half of their hourly rate or as compensatory time at time and a half of the hours worked.

Compensatory time shall be administered by the Fire Chief and a record of accruals and usage of compensatory time shall be maintained.

The employee shall notify the City, in writing, at the time the compensatory time is earned, that said overtime is to be added to his/her compensatory time accruals.

Use of compensatory time will be determined by the Fire Chief and will be integrated into existing Leave Time Program, except that compensatory time may be granted without advance notification. It is agreed that the use of compensatory time will not be allowed if said leave cause overtime.

Use of compensatory time accruals will be made utilizing compensatory time from the least recent accruals to the most recent accruals.

The maximum amount of accrued compensatory time allowed is three hundred and twenty (320) hours.

On or before May 1<sup>st</sup> and Nov. 1<sup>st</sup> of each year, an employee may request in writing payment for compensatory time accruals. Payment will be made on the second pay date in June and December, respectively, at the employee's then current rate of pay. A maximum of sixty (60) hours will be paid on each occasion.

For 2019, the May 1<sup>st</sup> deadline shall be extended to July 1<sup>st</sup> and payments for said compensatory time shall be made on the second pay date in August.

Use of compensatory time shall be in minimum of one (1) hour.

Approved compensatory time is final.

**ARTICLE VII  
GENERAL PROVISIONS**

1. This Agreement shall be effective for a period of four (4) years commencing January 1, 2019 and ending at midnight on December 31, 2022.
2. The City will furnish each Member of the Bargaining Unit with a copy of this Agreement without cost.
3. The benefits and privileges provided for in this Agreement are subject to the appropriate and applicable provisions of law.
4. In the event that any provisions hereof shall be held to violate any law, said provisions shall be separable from the remaining provisions of this Agreement, and said remaining provisions shall continue in full force and effect.
5. This Agreement may be changed, altered, or amended only in writing, signed by the Mayor of the City and by a duly authorized representative of the Bargaining Unit.
6. The City shall furnish each Member of the Bargaining Unit a copy of the Rules and Regulations of the Watervliet Fire Department without cost.
7. Probationary Period: There shall be a probationary period of one year for each firefighter hired commencing with the date of appointment as a firefighter.
8. The position of Deputy Chief is deemed management and excluded from the bargaining unit.
9. Any employee who completes the training for firefighter at the City's expense and who transfers from the City of Watervliet to another paid fire department within five (5) years of permanent appointment within Albany, Rensselaer, Saratoga, or Schenectady Counties without approval from the City will reimburse the City for its cost to train him/her. The reimbursement shall include all costs and expenses incurred by the City during any training.
10. The City will make available to each member on a monthly basis, a statement showing the member's current accumulated leave.
11. (A) Each member receives ninety-six (96) hours of Kelly Time per year. Any member that is scheduled to work more than ninety-one (91) tours per year (New Year's Day, Transfers, etc.) will receive an additional twenty-four (24) hours of Kelly Time for each tour over ninety-one (91). Kelly Time can be used in twelve (12) hour blocks. During first and last year of employment, Kelly Time will be prorated.  
  
(B) Members (excluding shift commanders) may use vacation or Kelly days

pursuant to the collective bargaining agreement, even if it causes a second person to be off during a shift, on the following terms:

- i. The use of the Kelly day or vacation day must not cause overtime.
- ii. The member must report to work at 8:00 a.m. on the day that he/she is requesting a day off so that overtime determination can be made.

(C) Beginning January 1, 2009, the commander will be counted in terms of member off on Kelly time. Only one member shall be permitted to use their Kelly time.

(D) Members who are attending the fire academy will earn Kelly time.

12. Probationary new hires, once they complete their Fire Academy training, will be assigned for a minimum of two (2) weeks to M-F (0800-1600 hrs.) as part of their training. During this time, the new hires will not be counted as manpower.

13. **Labor Management Committee:**

- A. The parties agree to the formulation of a joint labor relations committee to undertake a review and suggest editorial changes to the current agreement, including a specific discussion concerning the paramedic program. The Committee will be comprised of six (6) members, three (3) of whom will be chosen by the General Manager and three (3) to be chosen by the Association.
- B. The Labor Management Committee may discuss departmental operations, practices and procedures, employee safety and training, departmental shift and staffing, equipment maintenance and safety, modifications in supervision, communications and dispatch, departmental efficiency, and any other matters of mutual concern which the Association and City members of the Committee jointly agree to discuss.
- C. The Committee is intended to be a forum where both parties can freely express their views on the matters discussed. To that end, the parties agree that the discussions shall not be admissible for any purpose whatsoever in any judicial, quasi-judicial, arbitral, or administrative proceedings for any purpose whatsoever.
- D. The Committee will endeavor to make a mutually agreeable recommendation concerning matters which are discussed.
- E. The committee will meet at least once every 90 days (4 times a year, to

review any issues that may arise.)

14. **Firefighters in Good Standing:** Firefighters are public officers. Thus, while on and off duty, a firefighter is obligated to abide by all local, state and federal laws.

15. If a member has time off scheduled and is transferred to a different platoon, for any reason, that member will still be granted the time off even if it causes more than one member to be off.

16. **Taylor Law Notice:** 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 approval.

### ARTICLE VIII DISCIPLINE

Members may only be disciplined in compliance with the terms of Sections 75 and 76 of the New York State Civil Service Law.

### ARTICLE IX AMBULANCE SERVICES

1. The City of Watervliet Fire Department will be the first responders and transporting agency for the City of Watervliet.

2. EMS Recalls – Decrease from 4 to 2 hours.

3. Shift Supervisor – Goes back into rotation for Kelly time. Only one member off at a time.

4. (a) Through June 30, 2019, members who are assigned to the ambulance will receive the following compensation: an extra \$.75 an hour in 2009; \$1.25 in 2010; \$2.00 in 2011; and in 2012+, the following compensation shall apply:

Gross Fees Collected:

\$0-\$450,000	\$2.50 per hour per person
\$450,001-\$500,000	\$2.75 per hour per person
\$500,001-\$550,000	\$3.00 per hour per person
\$550,001 +	\$3.50 per hour per person

(b) This money will be paid weekly/bi-weekly. Starting in 2012, the numbers will

be based on the previous year and will take effect on March 1 so as to allow for a complete and accurate of all money collected.

(c) The City shall provide the Association President with a report of the gross fees collected by the City on June 30 of the current year and February 28 of the following year.

Effective July 1, 2019 Article IX, Section 4 shall be replaced with the following:

(a) Members who are assigned to the ambulance will receive compensatory time based upon the duration of the shift worked as follows:

<u>Duration of Shift Worked</u>	<u>Compensatory Time</u>
4 hours	.25 hours
8 hours	.50 hours
12 hours	1 hour
24 hours	2 hours

(b) A member who has accrued the maximum amount of accrued compensatory time allowed (i.e., 320 hours) shall be paid \$1.00 per hour for time assigned to the ambulance instead of the above credits to his/her compensatory time.

(c) The above money/compensatory time will be paid/credited bi-weekly as part of the member's regular payroll check.

(d) The City shall provide the Association President with a report of the gross fees collected by the City on June 30 of the current year and February 28 of the following year.

5. (a) Five (5) man minimum (if less than 5, each Association member will receive \$30 per calendar day up to a maximum of \$300 per month. 5 man minimum will commence after three (3) full hours of a tour. If a slot is not filled due to the acts/omissions of a union member, the City is not responsible. Further, if three (3) or more members are out on 207-a or extended sick leave (more than 30 days, the City will not be held to the five (5) man minimum).

(b) As long as the City continues the ambulance service, there will be no layoffs.

6. The City will use 5% of the monies collected from providing ambulance services after payment of all expenses associated with the ambulance service to be used for any type or level of training.

The City must submit the revenue and expenditure report of the ambulance and representatives of the City and Local 590 are to meet 15 days later to discuss the report and the five percent (5%) of revenue that goes towards training.

7. Captains who are shift commanders will receive an increase of \$300.00 in their annual pay.

8. In the event that ambulance service in and for the City of Watervliet is suspended, cancelled or terminated, it is hereby understood and agreed that all of the terms and conditions contained in Article IX Ambulance Service shall also automatically terminate and become null and void.

9. The City of Watervliet Fire Department will provide primary ambulance service and advanced life support care to the Village/Town of Green Island. For providing said service, the following provisions shall apply:

- (a) The Watervliet Fire Department will observe a five (5) man minimum requirement for each shift. In addition, if up to four (4) members are out on 207-a or extended sick leave, the City will not be held to the five (5) man minimum.
- (b) The Watervliet Fire Department will observe a two (2) paramedic per day minimum. In the event that there are only two (2) paramedics on a shift, and one (1) paramedic is off, overtime shall be paid to fill that position, including up to the 6<sup>th</sup> employee. All efforts will be made to monitor swaps and limit the instances that this provision will elevate shift strength to six (6) employees. This provision shall also not affect the ability of the CBU to use Vacation, Kelly, Personal or Compensatory Time. The Fire Chief shall continue to reserve the right to cancel swaps in order to prevent a shift from having six (6) men with two (2) paramedics
- (c) This section shall automatically terminate and become null and void and primary ambulance service and advanced life support care provided by the City of Watervliet Fire Department to the Town/Village of Green Island shall automatically terminate upon the following events:
  - (i) The cancellation of or the failure to extend and/or renew the Municipal Cooperation Agreement between the City of Watervliet and the Village of Green Island concerning primary ambulance service and advanced life support care to the Village/Town of Green Island by either the City of Watervliet or the Village of Green Island or
  - (ii) The interruption, suspension, cancellation or termination of primary ambulance service and advanced life support care by

the City of Watervliet Fire Department to the Village/Town of Green Island by any outside agency or

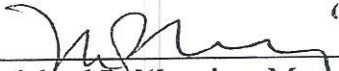
- (iii) Notification by the Town/Village of Green Island to the City of Watervliet that the Town/Village of Green Island has suspended and/or cancelled the primary ambulance service and advanced life support care provided by the City of Watervliet Fire Department to the Town/Village of Green Island or
- (iv) The governing board of the Town/Village of Green Island resolves to suspend and/or cancel the primary ambulance service and advanced life support care provided by the City of Watervliet Fire Department to the Town/Village of Green Island or
- (v) Notification by the City of Watervliet to the Town/Village of Green Island that the City of Watervliet has suspended and/or cancelled the primary ambulance service and advanced life support care provided by the City of Watervliet Fire Department to the Town/Village of Green Island or
- (vi) The Council of the City of Watervliet resolves to suspend and/or cancel the primary ambulance service and advanced life support care provided by the City of Watervliet Fire Department to the Town/Village of Green Island.

## **ARTICLE X RESIDENCY**

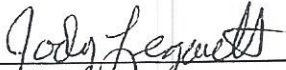
All firefighters will reside in Albany County or within 20 miles of the WFD firehouse.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first set forth above.

**THE CITY OF WATERVLIET, NEW YORK**

By:   
Michael P. Manning, Mayor

**UNIFORMED FIREFIGHTERS ASSOCIATION  
OF WATERVLIET, NEW YORK**

By:   
Jody Legault, President

**EXHIBIT "A"**

**WORK SCHEDULE**

24 consecutive hours of work from 8 a.m. to 8 a.m. the following day followed by 72 consecutive hours off.

## EXHIBIT "B"

### PROCEDURE FOR THE ADMINISTRATION OF SECTION 207-a OF THE GENERAL MUNICIPAL LAW FOR THE FIRE DEPARTMENT OF THE CITY OF WATERVLIET

#### SECTION 1 INTENT

The following shall be the exclusive procedure for determination and review of benefits claimed under Section 207-a of the General Municipal Law by fire fighters employed by the City of Watervliet. The procedure is intended to implement the express language of Section 207-a of the General Municipal Law and is not intended to reduce any benefits pursuant to Section 207-a of the General Municipal Law.

#### SECTION 2 NOTICE OF INCIDENT/DISABILITY OR NEED FOR MEDICAL OR HOSPITAL TREATMENT

- A. No application for benefits under 207-a of the General Municipal Law will be approved unless the applicant or someone acting on his/her behalf, shall have filed written notice in the Fire Chief's office within thirty (30) days of the discovery by the claimant of the illness giving rise to the disability. A firefighter who claims a right to benefits either because of a new illness or injury or a recurrence of a prior illness or injury, shall make written notice and application for those benefits on the appropriate form provided by the Fire Department.

The General Manager may, at his/her discretion and upon a showing of good cause, excuse the failure to file the application within the thirty (30) day period.

- B. The firefighter shall provide authorization for the City to obtain copies of his/her relevant medical records for his/her attending physician or other health care provider. In turn, the City will provide the firefighter, without cost, any records produced by any physicians or other expert provider who has examined the firefighter on behalf of the City. "Relevant medical records" shall mean the interpretation given by the Court of Appeals as set forth in Schenectady PBA v. PERB (85 N.Y.2d 480).

#### SECTION 3 STATUS PENDING DETERMINATION OF ELIGIBILITY OF BENEFITS

Except for an initial disability injury or illness demonstrated prima facie to

have been the result of performance of duties, the City may place the firefighter on sick leave or other appropriate accrued leave, consistent with the labor agreement, pending determination of his/her eligibility for Section 207-a benefits.

#### **SECTION 4 BENEFIT DETERMINATIONS**

- A. The City shall promptly review a firefighter's application for Section 207-a benefits and shall determine his/her eligibility within thirty (30) working days after the Chief receives the application.
- B. The City may require a more detailed statement from the firefighter than that contained on the application. In the event this is necessary, the City may take statements from witnesses and from the firefighter filing the application. The City may send the firefighter to a physician or physicians of its choice for examination. This will be done at the expense of the City.
- C. The determination will be made in writing to the firefighter, setting forth in detail the basis 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.

#### **SECTION 5 ASSIGNMENT TO LIGHT DUTY**

- A. As authorized by the provisions of subdivision 3 of Section 207-a, the Department acting through the Chief, or the Chief's designee, may assign a disabled firefighter specified light duties consistent with his or her physical or mental condition. The Chief, or the Chief's designee, shall advise the member that he/she is being considered for light duty. The Chief, or the Chief's designee, shall further specify the nature of the light duty to be performed. The member may then submit to the Chief any evidence or other documentation which he/she feels may cause an exemption from his/her light duty assignment. A physician selected by the Chief, or the Chief's designee, shall then be provided with a list of duties and activities associated with the light duty assignment for the purpose of determining the member's ability to perform the light duty prescribed. If the firefighter's physician does not agree with the findings of the City's physician, he/she must detail in writing those elements of the light duty assignment which the employee cannot perform and the specific reasons which prohibit the firefighter from performing the duties. If there is disagreement between the City's physician and the member's

physician as to the firefighter's fitness to perform one or more portions of the light duty assignment, those portions in question will not be assigned until the dispute is resolved pursuant to Section 7. It is understood that assignment to light duty is temporary and that the firefighter is not entitled to a continued light duty assignment for an indefinite duration of time.

- B. The basic workday tour of duty for all firefighters assigned to light duty shall be 24 hours or such portion thereof as may be medically permitted. Any portion of a 24 hour shift worked at light duty shall constitute a full shift unless otherwise agreed to by the firefighter. There shall be no reduction in salary or wages including increases thereof and fringe benefits which would have been received had a full 24 hour shift been worked. For light duty purposes, only a firefighter assigned to light duty may be temporarily reassigned from one platoon to another in order to accommodate the needs of the Department. If more than one firefighter is in a light duty assignment on the same platoon, seniority will prevail in determining which firefighter will move to another platoon. A reassigned firefighter will not forfeit his/her previously chosen vacation or hours reduction blocks. A firefighter assigned to light duty may be reassigned to a Monday through Friday workweek, eight hours per day, in a light duty assignment following working light duty on a shift basis for one month.

## **SECTION 6 REVIEW OF CONTINUED ELIGIBILITY FOR BENEFITS**

The City shall have the right to review the eligibility of every recipient of 207-a benefits throughout the period during which benefits are received. The right shall include, but shall not be limited to, requiring recipients to undergo medical examinations by physician or physicians chosen by the City, requiring recipients to testify regarding their current condition, and requiring recipients to provide documentation, books or records that bear on the recipient's case. A recipient of 207-a benefits shall have an affirmative duty to report any change in his or her medical condition or ability to work for the City.

## **SECTION 7 TERMINATION OF BENEFITS**

- A. If the application for benefits pursuant to Section 207-a is denied or the City determines that a recipient of benefits pursuant to Section 207-a is no longer or was never eligible for benefits, the City shall terminate such benefits as of the date of the determination of ineligibility. Notice of such termination and the reasons therefore shall be served by mail upon the firefighter. The firefighter, within ten (10) days after mailing of the notice of termination, may submit the matter directly to arbitration pursuant to the rules of the Public Employment Relations Board as

provided in Section 8. Pending final determination, the firefighter may use available vacation or personal leave accruals as provided in the labor agreement. Any benefits paid to a firefighter who is later determined not to have been eligible for all or part of such benefits shall be required to refund to the City the monies received to which he or she was not entitled. If such refund is not made immediately, it may be recovered by the City in a civil action or by payroll deduction.

- B. Salary payments and medical benefits shall be immediately forfeited pursuant to paragraph 6 of Section 207-a if a firefighter engages in any wage earning capacity other than authorized by Section 3 and 5 of Section 207-a. If a firefighter contests the forfeiture, he/she may invoke the provisions of Section 8 of this Agreement.

## **SECTION 8 DISPUTE RESOLUTION PROCEDURE**

In the event that the City denies an application for 207-a benefits, seeks to discontinue Section 207-a benefits, disagrees with any determination by the City regarding a benefit determination or there is a dispute about whether a firefighter is capable of performing a specific light duty assignment, the matter will be submitted directly to arbitration pursuant to the rules of the Public Employment Relations Board. In the initial determination of 207-a benefits, the burden of proof (preponderance of the evidence) will be on the firefighter. In all other cases, the burden of proof to discontinue 207-a benefits or on light duty assignments will be on the City. 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 the arbitration shall be borne equally by the City and the member.

## **SECTION 9**

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 who refuses to permit reasonable medical inspections in connection with such an application for accidental disability retirement or performance of duty disability retirement shall be deemed to have waived his/her rights under Section 207-a with respect to expenses for medical treatment or hospital care or salary or wages payable after such refusal.

## **SECTION 10**

A firefighter receiving 207-a benefits shall also receive all contractual benefits until his/her disability ceases or for nine (9) months from the date of injury. After the nine (9) month period, a firefighter who is unable to

perform any duties, including light duty, shall only be entitled to his or her regular salary and wages, longevity, and health insurance.

## EXHIBIT "C"

### DRUG AND ALCOHOL TESTING FOR THE CITY OF WATERVLIENT FIRE DEPARTMENT 2008

#### SECTION 1 POLICY

It is the goal and policy of the City of Watervliet ("City") and the Watervliet Firefighters Association ("WFA") for the employees of the fire department to maintain a drug free work environment through the use of a reasonable employee drug and alcohol testing program. The following reasons support this Policy.

- A. **PUBLIC SAFETY:** The Fire Department is charged with the responsibility of fighting fires and providing emergency medical services within the City. In essence, it is charged with protecting lives and property. These responsibilities have inherent dangers not present in most other governmental functions. An agency charged with these kinds of responsibilities cannot tolerate any kind of conduct on the part of employees which would impair their judgment or skills and thus create an unreasonable risk of harm to the public and other employees.
- B. **PUBLIC TRUST AND INTEGRITY:** The public has the right to demand that those who are charged with protecting lives and property are not attempting to perform their jobs in an impaired state. The use of alcohol and controlled substances compromises public trust.
- C. **EMPLOYEE MORALE/SAFETY:** Employees must be able to depend on their co-workers being reliable, effective, alert and cooperative. Employees must work together in sometimes very dangerous and tense situations with great potential for harm to the public and other employees. Conduct on the part of employees which impairs their ability to perform their duties places the safety of their co-workers in jeopardy. It may also have a bad effect on the morale of other employees because of a lack of trust in those who use alcohol and controlled substances. Such conduct interferes with the mission and responsibilities of the Fire Department.
- D. **LOSS OF PRODUCTIVITY:** It is well known that employees' use of alcohol and drugs leads to high rates of absenteeism and sick leave. It also increases the risk of on the job injuries with the resultant increase in workers' compensation and medical costs. The Fire Department may have to pay increased overtime, consolidate functions, and require other

employees to take up the slack. This results in a loss of productivity to the Department and increased costs. It may also place additional stress on other employees who must fill in, often having to work excessive overtime.

As part of its efforts to promote employee wellness, the City maintains an Employee Assistance Program (EAP) and encourages employees to voluntarily seek assistance regarding substance abuse. Similarly, supervisors should know the working habits of their employees in order to observe anomalies in behavior that might flag substance abuse. Supervisors bear a responsibility to their employees to instruct, guide and counsel them and to the Department to ensure high standards of performance.

## **SECTION 2 PURPOSE**

The purpose of this Policy is to offer guidelines to ensure an employee's drug-free status as a condition of employment and to provide procedures for drug/alcohol testing.

## **SECTION 3 DEFINITIONS**

**ALCOHOL** means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.

**APPLICANT** is an individual who is seeking to be employed in a position with the Fire Department, which is covered by the collective bargaining agreement between the City and the WFA.

**CONTROLLED SUBSTANCE** is marijuana, cocaine, opiates, amphetamines and phencyclidine.

**DRUG TEST** is a urinalysis test to detect drugs administered under approved medical conditions and procedures.

**DRUG ALCOHOL PROGRAM MANAGER** is a city employee responsible for administering the drug and alcohol testing program.

**EMPLOYEE** refers to an (1) individual employed by the City with the Fire Department, which is covered by the collective bargaining agreement between the City and the WFA or the City and AFSCME; (2) probationary employee; (3) individual employed in a supervisory or management position.

**MEDICAL REVIEW OFFICER (MRO)** means a licensed physician

(medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by the City's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's positive test result together with the individual's medical history and any other relevant biomedical information.

**SUBSTANCE ABUSE PROFESSIONAL** is a licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substance related disorders.

**VERIFIED NEGATIVE TEST** means a drug/alcohol test result reviewed by a medical review officer and determined not to contain alcohol or prohibited drugs or their metabolites above the cutoff levels established for laboratories approved to conduct Department of Transportation ("DOT") testing.

**VERIFIED POSITIVE TEST** means a drug/alcohol test result reviewed by a medical review officer and determined to contain alcohol or prohibited drugs or their metabolites above the cut off levels established for laboratories approved to conduct DOT testing.\*

#### **SECTION 4 PROHIBITIONS AND RESPONSIBILITIES**

A. Each employee covered by this Policy is:

1. Prohibited from possessing, selling, purchasing, manufacturing or transferring any controlled substance in violation of city, state or federal law, whether on or off duty.

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\* Drug testing will include split specimen procedures. Each urine specimen will be subdivided into two (2) samples, "A" and "B". Both samples will be sent to a laboratory. Sample "A" will then be split again into two (2) samples. If the analysis of sample "A" confirms the presence of illegal or controlled substances, the other sample "A" will then be retested with a different method. If this has a positive reading it will be considered a positive test. The employee will then have the option of having sample "B" tested at any lab they choose. If this comes back positive, it will be considered a positive test and the employee will be responsible for any costs associated with having sample "B" tested. If sample "B" comes back negative it will be considered a negative test and the City will be responsible for all costs.

2. Prohibited from any use of any controlled substance in violation of city, state or federal law, whether on or off duty.
3. Prohibited from consuming or possessing alcoholic beverages on duty.
4. Prohibited from the consumption of alcohol within eight (8) hours of the employee's actual time worked and from consuming alcoholic beverages while operating a city vehicle or eight (8) hours prior to operating such vehicle (BAC under .02%).
5. Prohibited from the consumption of alcohol within eight (8) hours following an accident or until the employee takes a post-accident alcohol and/or drug test; whichever occurs first.
6. Required to submit to reasonable suspicion alcohol and/or drug testing which directed by the City; and prohibited from tampering or attempting to tamper with such alcohol and/or drug test.

B. Each employee, under this Policy:

1. Shall be responsible for informing his/her supervisor when being prescribed medication that is covered under the terms of this policy that may impair on-the-job performance or affect their ability to perform work duties safely and efficiently.
2. Shall use medically authorized drugs or over the counter medications in a manner which will not impair on-the-job performance or affect their ability to perform work duties safely and efficiently. Employee may be required to provide proof of lawful prescription.
3. Shall promptly report to his/her supervisor whenever he/she observes or has knowledge of another employee who poses a hazard to the safety and welfare of others.
4. May be temporarily re-assigned to other duties during the time he/she is required to take prescribed medication which has the potential to impair on-the-job performance or affect their ability to perform work duties safely and efficiently.
5. Shall promptly report to his/her supervisor whenever he/she observes or has knowledge of another employee who poses a hazard to the safety and welfare of others.
6. May be temporarily re-assigned to other duties during the time

he/she is required to take prescribed medication which has the potential to impair on-the-job performance or affect their ability to perform work duties safely and efficiently.

## **SECTION 5 EDUCATION**

Every employee will receive a copy of this Policy and will receive a minimum of sixty (60) minutes of training regarding this Policy and the effects of prohibited drug use and alcohol misuse that impacts an individual's biological, emotional, psychosocial well-being. The effects of misuse can be seen in an individual's work performance, attitude and social interaction. Training shall be provided to each employee within 60 days of adoption of this Policy for current employees and within 60 days of a new employee's date of hire.

All supervisory personnel responsible for determining whether reasonable suspicion exists to require an employee to undergo alcohol and/or drug testing will also receive a minimum of 120 minutes of training on the physical, behavioral, speech and performance indicators of probable prohibited drug use and alcohol misuse.

## **SECTION 6 SUBSTANCES TESTED**

### **A. Alcohol**

Employees subject to alcohol testing will have a sample of their breath tested for the presence of the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohol including methyl or isopropyl alcohol. A breath alcohol level of 0.02 or greater constitutes a positive test result. A confirmation test will be given if an employee's initial breath alcohol test level exceeds 0.02.

If the breathalyzer gives a positive reading of .02 or higher the employee will have the option of giving a blood sample to be tested. If the blood is deemed positive the test will be considered positive and the employee will be responsible for the cost of the blood test. If the blood is deemed negative the test will be considered negative and the City will pay for the cost of the blood test

Any refusal to submit to an alcohol test and all positive alcohol tests, will be reported immediately by the testing facility to the City of Watervliet Drug and Alcohol Program Administrator.

### **B. Drugs**

Employees subject to drug testing will have a sample of their urine tested for the presence of five (5) drugs, as follows:

1. Marijuana
2. Cocaine
3. Opiates
4. Amphetamines
5. Phencyclidine

All drug tests will be reported to the testing laboratory to a MRO who will evaluate the results. After evaluation and interpretation, all verified positive test results will be reported by the MRO to the employee and to the City of Watervliet Alcohol Program Administrator. Any refusal to submit to a drug test will be immediately reported by the collection site to the City of Watervliet Alcohol Program Administrator.

## **SECTION 7 TYPES OF TESTING**

Employees can only be testing while on duty.

The following tests will be required of all employees in accordance with the drug and alcohol testing procedures set forth in this Policy:

- A. Pre-employment tests
- B. Post-accident tests
- C. Random tests
- D. Reasonable suspicion tests
- E. Return to duty/follow-up tests

## **SECTION 8 ALCOHOL AND DRUG TESTING PROCEDURES**

This Policy incorporates the federal regulatory mandates for alcohol and drug testing procedures required for transportation workplace drug testing programs:

49 CFR PART 40  
Subpart A  
40.3 Definitions

Subpart B – Drug Testing  
40.21 The drugs  
40.23 Preparation for testing  
40.25 Specimen collection procedures  
40.27 Laboratory personnel  
40.29 Laboratory analysis procedures

- 40.31 Quality assurance and quality control
- 40.33 Reporting and review of results
- 40.35 Protection of employee records
- 40.37 Individual access to test and laboratory certification results
- 40.39 Use of DHHS – certified laboratories

Subpart C – Alcohol Testing

- 40.51 The breath alcohol technician
- 40.53 Devices to be used for breath alcohol tests
- 40.55 Quality assurance plans for EBTs
- 40.57 Locations for breath alcohol testing
- 40.59 The breath alcohol testing form and log book
- 40.61 Preparation for breath alcohol testing
- 40.63 Procedures for screening tests
- 40.65 Procedures for confirmation tests
- 40.67 Refusal to test and uncompleted tests
- 40.69 Inability to provide an adequate amount of breath
- 40.79 Invalid tests
- 40.81 Availability and disclosure of alcohol testing information about individual employees
- 40.83 Maintenance and disclosure of records concerning EBTs and BATs

It is the intent of this Policy that Fire Department employees subject to testing will be provided with the same testing procedures, safeguards, confidentiality, chain of custody provisions and integrity of the testing process provided to transit employees pursuant to the federal regulations. The collection site/medical lab, medical review officer, and substance abuse professional shall be the same as provided for transit employees. To the extent the above regulations conflict with the policy, the policy shall govern. For example, this policy and not the regulations shall govern the consequences of a positive test.

**SECTION 9 PRE-EMPLOYMENT TESTING**

- A. Applicants selected for hire will be required to undergo pre-employment testing. Applicants will be informed that they are subject to pre-employment drug testing at the time they apply for a covered position. Once a conditional job offer is made, the applicant shall have a urine sample collected and tested for evidence of the substances listed in Section 6. The time, date and location of the physical examination and drug test will be announced in advance of the test.
- B. Disqualification from Employment
  - 1. Applicants for initial hire will be disqualified from employment if

they:

- a. fail to appear for the physical examination and urine collection on the designated day unless excused by the City for good and verifiable cause; or
  - b. refuse to provide a urine sample; or
  - c. attempt to alter, taint or otherwise provide a false sample; or
  - d. test positive for the presence of one of the substances listed in Section 6.
2. Persons who are disqualified from the position that required the pre-employment test shall be disqualified from applying for any covered position for a period of six (6) months. Applications from such persons will hereafter only be accepted if accompanied by a current, written statement from a licensed substance abuse professional verifying that the applicant is not then an abuser of alcohol and/or active user of drug.

#### **SECTION 10 POST-ACCIDENT TESTING**

All employees in safety-sensitive positions as identified in this policy will be subject to post-accident alcohol and drug testing in accordance with the City's alcohol and drug testing procedures.

- A. A City of Watervliet officer, City of Watervliet supervisor or other qualified personnel shall be responsible for making a determination whether a post-accident drug and alcohol test is required at the time any covered employee is involved in an accident. An "accident" requiring an alcohol and drug test is any accident where:
1. a fatality has occurred; or
  2. the covered driver receives a citation under State or local law for a moving traffic violation arising from the accident during which injuries were sustained requiring the injured person to immediately receive medical attention away from the scene; or
  3. a covered driver receives a citation under State or local law for a moving traffic violation arising from an accident during which any vehicle involved in an accident is disabled and towed away.
- B. The City of Watervliet will also test any safety-sensitive employees whose performance could have contributed to the accident.
- C. Employees required to submit to post-accident drug and alcohol testing will be tested as soon as possible (in all cases drug tests shall be conducted within 32 hours following the accident and alcohol tests shall

be conducted within eight hours of the accident).

- D. An employee required to submit to a post-accident drug and alcohol test will be transported by the City to the collection site and will be required to sign a consent form. The employee must provide a urine and breath sample unless it is determined by medical personnel present that the employee is medically unable to provide the required samples. Following the test, the employee will be relieved of duty with pay pending the City's receipt of the results of the tests from the MRO.
- E. It is the City of Watervliet's position that employees who are required to submit to a post accident drug and alcohol test will be subject to discipline in accordance with Section 15 of this policy if they:
  - 1. refuse to sign a consent form or refuse to provide a breath and/or urine sample (such refusal shall constitute a verified positive drug and/or alcohol test results); or
  - 2. attempt to alter, taint, or otherwise provide a false sample; or
  - 3. test positive for the presence of one or more of the substances listed in Section 6 of this policy.
- F. Safety sensitive employees must be readily available for post-accident testing. If an employee fails to remain readily available, e.g., notifying supervisor where employee can be located if employee leaves scene of the accident prior to submitting to testing, the employee will be deemed to have refused to submit to testing which shall constitute a verified positive drug and/or alcohol test result. The requirement to immediately report for post-accident testing is stayed while an employee assists in resolution of an accident or receives medical attention following the accident. In such cases, the employee shall report for post-accident testing immediately after the employee completes provision of necessary post-accident assistance or after necessary medical attention is provided.

## **SECTION 11 RANDOM TESTING**

- A. The City of Watervliet will maintain a list of all employees in the Fire Department. During each calendar year, alcohol and/or drug tests will be administered to these employees on a scientifically random number selection basis. Under the random selection process each employee will have an equal chance of being selected for testing based on neutral criterion such as social security numbers. This process means that alcohol and drug tests are unannounced. Selected employees are required to report immediately for testing after notification of selection. The dates of administering unannounced testing of randomly selected

employees shall be spread reasonably throughout the calendar year. All employees will remain in the random pool even after being selected for testing. Thus, it is possible for an employee to be selected for testing more than once within a given time period.

- B. Fifty percent (50%) of the total number of safety sensitive employees shall be annually randomly tested for drugs and ten (10%) of such employees shall be annually and randomly tested for alcohol.
- C. Employees selected for random alcohol and/or drug tests will be provided with transportation and will immediately report to the collection site where they will be required to provide a breath and/or urine sample.
- D. It is the City of Watervliet's policy that employees will be subject to discipline in accordance with Section 15 of the policy if they:
  - 1. do not appear and complete a random drug and/or alcohol test immediately following notification to appear for such tests, refuse to sign a medical authorization for an administrative alcohol and drug test or refuse to provide a breath and/or urine sample (such a refusal shall constitute a verified positive and/or alcohol test result). Employees can be only tested while on duty; or
  - 2. Attempt to alter, taint, or otherwise provide a false sample; or
  - 3. Test positive for the presence of one or more of the substances listed in Section 6 of this Policy.

## **SECTION 12 REASONABLE SUSPICION TESTING**

- A. All employees may be requested to submit to a reasonable suspicion alcohol and/or drug test. Only the Chief of the Fire Department or Commissioner of Public Safety can require an employee to be tested under "reasonable suspicion".
- B. Employees who are reasonably suspected by a supervisor of violating this Policy will be required to submit to an alcohol and/or drug test in accordance with this Policy. A trained supervisor who makes a determination that a test is required will complete a form indicating the grounds for such determination. Reasonable suspicion must be based on a belief by a trained supervisor that an employee is using or has used drugs or alcohol in violation of this Policy and is drawn from specific objective and articulated facts and reasonable inferences drawn from those facts in light of experience, and may be based upon, among other things:
  - 1. observable phenomena, such as direct observation of alcohol or

- drug use and/or the physical symptoms or manifestations of being under the influence of alcohol or a drug such as appearance, speech or body odors;
2. Abnormal conduct or erratic behaviors while at work, excessive absenteeism, tardiness or deterioration in work performance;
  3. An arrest for drug related charges.
- C. An employee who is required to submit to an alcohol and/or drug test under this section must sign a consent form.
- D. Employees will be transported by the City to the collection site and will be required to provide a breath and/or urine sample. Following completion of the test, employees will be transported home and relieved of duty with pay pending the City's receipt of the results of the test from the MRO.
- E. It is the City of Watervliet's policy that employees will be subject to discipline in accordance with Section 15 of this Policy if they:
1. Refuse to sign a consent form or refuse to provide a urine and/or breath sample (which refusal shall constitute a verified positive drug and/or alcohol test result); or
  2. Attempt to alter, taint or otherwise provide a false sample; or
  3. Test positive for the presence of one or more of the substances listed in Section 6 of this Policy.

### **SECTION 13 RETURN TO WORK TESTING**

Employees who have been disciplined in accordance with Section 15 of this Policy as a result of their first positive test indicating the presence of one or more of the substances listed in Section 6 will be required, prior to returned to work, to take a return to duty alcohol and/or drug test with a verified negative result in accordance with this policy.

### **SECTION 14 FOLLOW-UP TESTING**

Employees who have been disciplined in accordance with Section 14 of this Policy as a result of a positive alcohol and/or drug test required, upon return to work shall be subject to a minimum of six (6) unannounced drug and/or alcohol follow up tests during the first twelve (12) months following the employee's return to work, and further testing as recommended by the substance abuse professional for up to a maximum of sixty (60) months.

### **SECTION 15 CONSEQUENCES OF THE MISUSE OF DRUGS AND ALCOHOL**

Any employee testing positive for any of the drugs specified in Section 6(B) of this Policy, or who has a breath alcohol concentration of 0.02 or greater, will be immediately removed from his/her position and placed on leave with pay status pending disciplinary action. Employees testing positive will be provided with information from the City's employee assistance program (EAP) regarding alcohol and/or substance abuse and the names, addresses and telephone numbers of substance abuse professionals and counseling and treatment programs. The City will have no responsibility to pay for any necessary treatment on the part of an employee.

A. Consequences of a Positive Drug or Alcohol Test

1. Any job applicant who tests positive for drugs will not be hired.
2. Conditional Retention.

It is the City of Watervliet's policy that employees, who have a verified positive drug or alcohol test and are not subject to termination under Section 15A.1 or 15B of this Policy, will be offered conditional retention of employment if the employee:

- a) submits to an evaluation by a substance abuse professional approved by the City's EAP; and
- b) signs a conditional retention of employment agreement; and
- c) is determined by a substance abuse professional to require assistance in resolving problems associated with drug abuse and/or alcohol misuse (the employee must agree to attend a City of Watervliet treatment program and sign a monitoring agreement with the City's EAP to ensure successful completion of the treatment program specified by the substance abuse professional) ; and
- d) upon return to work, is subject to a return to duty drug and/or alcohol test and follow-up tests.

The employee who is conditionally retained must fully comply with the conditions of retention of employment, including successful completion of the treatment program specified by the substance abuse professional.

3. Discipline for a Positive Drug or Alcohol Test

Current employees who have a confirmed positive drug or alcohol test will immediately be removed from duty and disciplined. In deciding the appropriate discipline, and if applicable, penalty, the City must consider the following factors:

- (1) Employee's work record;
- (2) Distinctions and/or honors bestowed in service;
- (3) Voluntary rehabilitation efforts;
- (4) Type of drug abused;
- (5) Evidence regarding the extent of misuse;
- (6) Prior history of abuse or lack thereof;

An employee's first offense may result in discipline up to 30 days suspension without pay.

An employee's second offense may result in discipline up to and including termination.

#### B. Termination

It is the City of Watervliet's policy that employees will be terminated with due process if the employee:

1. Uses, possesses, sells, purchases, manufactures or transfers any controlled substance in violation of city, state or federal law, whether on or off duty, or consumes or is in possession of alcohol on duty.
2. Consumes alcoholic beverages while operating a city vehicle; or eight (8) hours prior to operating such vehicle; or within eight (8) hours following an accident involving a city vehicle or until the employee takes a post-accident alcohol and/or drug test, whichever occurs first.
3. Refuses to submit to an alcohol and/or drug test when so directed by the City of Watervliet, or tampers or attempts to tamper with an alcohol and/or drug test; or
4. Tests positive and was involved in an accident resulting in death, serious injury or extensive property damage; or
5. Tests positive and is also being terminated for other misconduct which could independently result in their discharge; or
6. Tests positive and has not completed the initial probationary period

following hire to the employee's first position with the City of Watervliet; or

7. Does not appear and complete a follow-up drug and/or alcohol test within two (2) hours following notification to appear for such tests, refuses to sign a consent form or refuses to provide a breath and/or urine sample.

## **SECTION 16 CONFIDENTIALITY**

All testing will be conducted in accordance with the federal regulations to ensure test results are accurate and reliable. Further, the City will carry out this Policy in a manner that respects the dignity and confidentiality of those involved. No laboratory reports or test results shall appear in the employee's employment history unless they are a part of a disciplinary action taken. Laboratory reports and test results shall be placed in a special locked file maintained by the Drug Abuse Coordinator. Files relating to laboratory reports or test results maintained by the Drug Abuse Coordinator must be kept confidential and shall be disclosed only by consent of the patient. Test information, however, shall be released to the employee, the employer, or the decision maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the individual and arising from a certified positive drug test. Upon request, an employee is entitled to obtain copies of any records pertaining to the employee's use of prohibited drugs, including any records pertaining to the employee's drug tests.

## **SECTION 17 EMPLOYEE ASSISTANCE PROGRAM**

The City of Watervliet takes seriously its commitment to provide safe conditions to the public and its employees. Recognizing this commitment, the City maintains employee assistance programs that can provide access to professional services in an effort to aid any employee who has an alcohol or chemical dependency problem. Participation in this program is voluntary and all records regarding self-referral or acknowledgment will be kept confidential to the extent required by law.

All employees who suspect they may have an alcohol or substance abuse problems are strongly encouraged to utilize employee assistance program resources before the problem affects their employment status. There will be no disciplinary action involved. Voluntary self-referral, however, shall not relieve the employee from responsibility for adequate job performance. Self-referral after notification of a required drug or alcohol test will not

eliminate the requirement to take such a test and will preclude from the taking of disciplinary action against an individual who fails a required drug or alcohol test.

Any costs for counseling or rehabilitation shall be the responsibility of the employee. Employees may use accumulated leave to attend and treat through an employee assistance program. Questions about the City of Watervliet's employee assistance program should be addressed to the City's safety officer, who serves as the drug and alcohol program administrator.

## **SECTION 18 APPEALS**

Any employee subject to discipline as a result of drug/alcohol testing will have the right to grieve the discipline pursuant to their respective collective bargaining agreement.

**EXHIBIT "D"**

**November 23, 2016**

**Dear Health Insurance Enrollee:**

**As you may be aware, there are pending changes to most health insurance plans due to the Affordable Care Act. Specifically, there are changes to the group size affiliation. As a result, the City of Watervliet is now considered a small group and is required to change the health insurance plan that we currently offer to all employees and retirees. The previous plan is no longer being offered.**

**The City has identified Blue Shield of Northeastern New York's Platinum Radius plan as the best option. It is a comparable plan, both in coverage and in cost. Enclosed is a copy of the Benefit Summary of the plan which will be effective on January 1, 2017. Open enrollment begins on December 1, 2016 and ends on December 23, 2016. The City of Watervliet will continue to reimburse Dr. visit co-pays as is currently done and will now reimburse the difference in medication co-pays from the current plan to the Blue Shield Plan (tier 2 reimburse cost over \$20, tier 3 reimburse cost over \$35.)**

**For Medicare enrollees, the City has identified the Blue Shield Forever Blue PPO 799 Plan.**

**Also enclosed please find the co-pay reimbursement schedule for the next four quarters.**

**Please contact me if you have any questions. I can be reached at (518) 270-3800 x115 or via email at [jsmith@watervliet.com](mailto:jsmith@watervliet.com).**

**Very Truly Yours,**

**Jeremy A. Smith,  
City Clerk/Benefits Administrator**

**Encs.**