

AGREEMENT

BETWEEN

CITY OF ELMHURST

AND

ELMHURST PROFESSIONAL

FIREFIGHTERS ASSOCIATION,

IAFF LOCAL 3541

May 1, 2020 – December 31, 2022

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AGREEMENT

This Agreement is made and entered into by and between the City of Elmhurst (hereinafter referred to as the “City”) and the Elmhurst Professional Firefighters Association, IAFF Local 3541 (hereinafter referred to as the “Union”).

It is the intent and purpose of this Agreement to set forth the parties’ entire agreement with respect to the rates of pay, hours of employment, fringe benefits, and other conditions of employment that will be in effect during the term of this Agreement for employees covered by this Agreement; to prevent interruptions of work and interference with the operations of the City; to encourage and improve efficiency and productivity; and to provide procedures for the prompt and peaceful adjustment of grievances as provided herein.

NOW, THEREFORE, the parties agree as follows:

ARTICLE I

RECOGNITION AND REPRESENTATION

Section 1.1. Recognition. The City recognizes the Union as the sole and exclusive bargaining representative for all sworn full-time Firefighters and Fire Lieutenants within the Elmhurst Fire Department, but excluding the Fire Chief; Deputy Fire Chief; any employee excluded from the definition of firefighter as defined in Section 3(g-1) of the Act as amended; all sworn Battalion Chiefs; and managerial, supervisory, confidential, short-term or professional employees as defined by the Act, as amended.

Section 1.2. Duty of Fair Representation. The Union recognizes its responsibility as bargaining agent and agrees to fairly represent all employees in the bargaining unit without discrimination, interference, restraint or coercion. The Union's duty of fair representation shall be carried out in conformity with the standards enunciated by the United States Supreme Court in Vaca v. Sipes, 386 U.S. 171.

ARTICLE II

NON-DISCRIMINATION

In accordance with applicable law, neither the City nor the Union shall discriminate against any employee covered by this Agreement because of race, sex, age, religion, creed, color, national origin, handicap, sexual orientation, marital status (including civil union), or Union membership or non-membership. Any dispute concerning the interpretation and application of this paragraph with respect to alleged discrimination because of race, sex, age, religion, creed, color, handicap, sexual orientation, marital status (including civil union), or national origin shall be processed through the appropriate federal or state agency or court rather than through the grievance procedure set forth in this Agreement.

ARTICLE III

DUES CHECKOFF AND UNION RIGHTS

Section 3.1. Dues Checkoff. During the term of this Agreement the City will deduct from each employee's paycheck once each month the uniform, regular monthly Union dues and any special assessment, provided that there is no more than one special assessment per year, in a uniform amount, which shall be certified to the City by the Union Treasurer, for each employee in the bargaining unit who has filed with the City a lawfully written authorization form.

The actual dues amount deducted, as determined by the Union, shall be uniform for each employee in order to ease the City's burden in administering this provision. The Union may change the fixed uniform dollar amount once each year during the life of this Agreement by giving the City at least thirty (30) days' notice of any change in the amount of the uniform dues to be deducted. The City shall remit the total amount of the dues deducted, together with a list of the employees from whom dues have been deducted, to the person designated by the Union in writing not later than fifteen (15) days after the issuance of each paycheck from which dues have been deducted.

The City agrees that during the time that the Union is certified as the exclusive bargaining representative of the employees covered by this Agreement it will not deduct dues for any other labor organization for any employees covered by this Agreement.

If an employee has no earnings or insufficient earnings to cover the amount of the dues deduction, the Union shall be responsible for collection of dues. The Union agrees to refund to the employee any amounts paid to the Union in error on account of this dues deduction provision.

Section 3.2. Fair Share. During the term of this Agreement, bargaining unit employees who are not members of the Union shall, commencing sixty (60) days after the effective date of this Agreement or sixty (60) days after their employment, whichever is later, pay as a condition of employment a fair share fee to the Union for collective bargaining and contract administration services rendered by the Union as the exclusive representative of the employees covered by this Agreement, provided that the fair share fee shall not exceed the dues attributable to being a member of the Union. Such fair share fees shall be deducted by the City from the earnings of non-members and remitted to the Union in the same manner and intervals as Union dues are deducted. The Union shall periodically submit to the City a list of employees covered by this Agreement who are not members of the Union and an affidavit which specifies the amount of the fair share fee. The amount of the fair share fee shall not include any contributions related to the election of or support of any candidate for political office or for any member only benefit.

The foregoing fair share fee obligation shall apply to any employee in the bargaining unit, as of the date this Agreement is ratified by both parties, who is not a member of the Union on that date. Any such employees must pay, pursuant to the deduction provisions of this Section, either the fair share fee or an amount equal to such fair share fee to a charitable organization selected in accordance with the last paragraph of this Section.

The requirement to pay a fair share fee shall be applicable to any employee who is employed in a bargaining unit position after the date on which this Agreement is ratified by both parties and who either fails to join the Union and authorize dues deduction within the sixty (60) day period, or who is a member of the Union on or after the date on which this Agreement is ratified by both parties and who thereafter withdraws from such membership and revokes authorization for dues deduction.

The Union agrees to assume full responsibility to insure full compliance with the requirements laid down by the United States Supreme Court in Chicago Teachers Union v. Hudson, 106 U.S. 1066 (1986), with respect to the constitutional rights of fair share fee payors. Accordingly, the Union agrees to do the following:

- (a) Give timely notice to fair share fee payors of the amount of the fee and an explanation of the basis for the fee, including the major categories of expenses, as well as verification of same by an independent auditor.
- (b) Advise fair share fee payors of an expeditious and impartial decision-making process whereby fair share fee payors can object to the amount of the fair share fee, *i.e.*, the Illinois State Labor Relations Board (ISLRB) procedure.
- (c) Place the amount reasonably in dispute into an escrow account pending resolution of any objections raised by fair share fee payors to the amount of the fair share fee.

It is specifically agreed that any dispute concerning the amount of the fair share fee and/or the responsibilities of the Union with respect to fair share fee payors as set forth above shall not be subject to the grievance and arbitration procedure set forth in this Agreement.

Non-members who object to this fair share fee based upon bona fide religious tenets or teachings shall pay an amount equal to such fair share fee to a non-religious charitable organization mutually agreed upon by the employee and the Union. If the affected non-member and the Union are unable to reach agreement on the organization, the organization shall be selected by the affected non-member from an approved list of charitable organizations established by the Illinois State Labor Relations Board and the payment shall be made to said organization.

Section 3.3. Indemnification. The Union shall indemnify and hold harmless the City, its elected representatives, officers, administrators, agents and employees from and against any and all claims, demands, actions, complaints, suits or other forms of liability (monetary or

otherwise) that arise out of or by reason of any action taken or not taken by the City for the purpose of complying with the provisions of this Article, or in reliance on any written checkoff authorization furnished by the Union under any of such provisions. This indemnification shall not extend to errors that are solely the fault of the City.

Section 3.4. Union Use of Bulletin Board. The City will make available space on a bulletin board in each station for the posting of official Union notices of a non-political, non-inflammatory nature. The Union will limit the posting of Union notices to such bulletin boards.

ARTICLE IV

SENIORITY, LAYOFF AND RECALL

Section 4.1. Definition of Seniority. Seniority shall be based on the length of time from the last date of beginning continuous full-time employment as a sworn firefighter in the Fire Department of the City. Conflicts of seniority shall be determined on the basis of the order of the employees on the Elmhurst Fire and Police Commission hiring list, with the employee higher on the list being the more senior, except that conflicts of seniority amongst officers in the bargaining unit shall be determined on the basis of the seniority in rank of the officers, with the employee higher on the applicable promotion list being more senior.

Section 4.2. Probationary Period. In accordance with 65 ILCS 5/10-2.1-6.3(c), the probationary period for newly hired employees shall be twelve (12) months in duration of actual, active employment, which may exclude periods of training, or injury or illness leaves, including duty-related leave, in excess of thirty (30) calendar days. During such probationary period, an employee is subject to discipline, including discharge, without cause and with no recourse to the grievance procedure. Probationary employees must successfully complete by the end of the probation the following requirements: (1) Hazardous Materials Operations and (2) Office of State Fire Marshal Certified Firefighter Basic. During an employee's probationary period the employee may be suspended or terminated at the sole discretion of the Employer. No grievance shall be presented or entertained in connection with the suspension or termination of a probationary employee.

There shall be no seniority among probationary employees. Upon successful completion of the probationary period, an employee shall acquire seniority which shall be retroactive to his last date of hire with the City in a position covered by this Agreement.

Section 4.3. Seniority List. On or before January 1 and July 1 each year, the City will post on a bulletin board at each station and simultaneously provide the Union with a seniority list setting forth each employee's seniority date. The City shall not be responsible for any errors in the seniority list unless such errors are brought to the attention of the City in writing within fourteen (14) calendar days after the Union's receipt of the list.

Section 4.4. Layoff. The City, in its discretion, shall determine whether layoffs are necessary. If it is determined that layoffs are necessary, employees covered by this Agreement will be laid off in accordance with their length of service as provided in Illinois Statute, 65 ILCS 5/10-2.1-18.

Except in an emergency, no layoff will occur without at least forty-five (45) calendar days' notification to the Union. The City agrees to consult the Union, upon request, and afford the Union an opportunity to propose alternatives to the layoff, though such consultation shall not be used to delay the layoff.

Section 4.5. Recall. Employees who are laid off shall be placed on a recall list for a period of three (3) years. If there is a recall, employees who are still on the recall list shall be recalled in the inverse order of their layoff. Prior to hiring any new employees, the City must first recall all laid off employees on a recall list.

Employees who are eligible for recall shall be given up to twenty-one (21) calendar days to report back to work from date of receipt of the notice of recall (provided that the Fire Chief for good cause shown may extend the number of days to twenty-eight (28)), provided that the employee must notify the Fire Chief or his designee of his intention to return to work within seven (7) days after receiving notice of recall. The City shall be deemed to have fulfilled its obligations by mailing the recall notice by registered mail, return receipt requested, to the

mailing address last provided by the employee, with a copy to the Union, it being the obligation and responsibility of the employee to provide the Fire Chief or his designee with his latest mailing address. If an employee fails to timely respond to a recall notice his name shall be removed from the recall list.

Section 4.6. Termination of Seniority. Seniority and the employment relationship shall be terminated for all purposes if the employee:

- (a) quits;
- (b) is discharged for just cause;
- (c) retires or is retired;
- (d) is laid off for a period in excess of three (3) years;

Seniority and the employment relationship may be terminated for all purposes if the employee:

- (e) falsifies the reason for a leave of absence;
- (f) is absent from work for any reason, excluding layoff and excluding occupational illness or injury incurred during service for the City, for a continuous period in excess of eighteen (18) months; or
- (g) abandons his position.

For the purpose of subsection (g), an employee shall be presumed to have abandoned his position when he fails to report to work for seven (7) calendar days after the expiration of an authorized leave of absence, vacation, or the reporting date prescribed in a notice of recall from layoff. This presumption shall be conclusive unless the failure to report is due to circumstances beyond the control of the employee or an extension of time is agreed to in writing by the Fire Chief or his designee.

Notwithstanding the foregoing, an employee who is on a duty-related or non-duty related disability pension and who is reinstated into active service in the Fire Department pursuant to the

provisions of 40 ILCS 5/4-112, the employee's seniority and employment relationship shall not be adversely affected.

Section 4.7. Seniority Adjustments. An employee's accrual of seniority shall be interrupted during the period when an employee is laid off, placed on a non-duty disability pension or is on a leave of absence without pay. When an employee returns from a layoff, non-duty disability or an unpaid leave of absence, his seniority shall be his length of service up to the date of layoff, non-duty disability or beginning of the unpaid leave of absence. Seniority shall not be interrupted, and shall also continue to accrue, during periods of time when an employee is receiving workers' compensation or disability pension benefits for a work related injury.

ARTICLE V

GRIEVANCE PROCEDURE

Section 5.1. Definition. A "grievance" is defined as a dispute or difference of opinion raised by an employee or the Union against the City involving an alleged violation of an express provision of this Agreement, except for Section 15.12, "Compliance with Specific Statutes." Except as provided in Articles XIII or XIV of this Agreement, any dispute or difference of opinion concerning a matter or issue subject to the jurisdiction of the Elmhurst Police and Fire Commission shall not be considered a grievance under this Agreement.

Section 5.2. Procedure. The parties acknowledge that it is usually most desirable for an employee and his immediate supervisor to resolve problems through free and informal communications. If, however, the informal process does not resolve the matter, the grievance will be processed as follows:

STEP 1: The grievant shall submit the grievance in writing to the Deputy Fire Chief, specifically indicating that the matter is a grievance under this Agreement. The grievance shall contain a summary statement of the facts (who, what, when, and where?), the provision or provisions of this Agreement which are alleged to have been violated or may be applicable, and the relief requested. All grievances must be presented no later than seven (7) calendar days from the date of the first occurrence of the matter giving rise to the grievance or within seven (7) calendar days after the employee, through the use of reasonable diligence, could have obtained knowledge of the first occurrence of the event giving rise to the grievance. The Deputy Chief or his designee shall render a written response to the grievant within seven (7) calendar days after the grievance is presented.

STEP 2: If the grievance is not settled at Step 1 and the employee wishes to appeal the grievance to Step 2 of the grievance procedure, it shall be submitted in writing to the Fire Chief within seven (7) calendar days after receipt of the City's answer at Step 1. The Fire Chief, or his designee, shall provide a written answer to the grievant within seven (7) calendar days after the grievance is appealed to Step 2.

STEP 3: If the grievance is not settled at Step 2 and the Union desires to appeal, it shall be referred by the Union in writing to the City Manager within seven (7) calendar days after receipt of the City's answer at Step 2. Thereafter, the City Manager or his designee and other appropriate individual(s) as desired by the City Manager, shall meet with the grievant and a Union representative within fourteen (14) calendar days of receipt of the Union's appeal, if at all possible. If no agreement is reached, the City Manager or designee shall submit a written answer to the grievant and Union within fourteen (14) calendar days following the meeting.

Section 5.3. Arbitration. If the grievance is not settled in Step 3 and the Union wishes to appeal the grievance from Step 3 of the grievance procedure, the Union may refer the grievance to arbitration, as described below, within twenty-one (21) calendar days of receipt of the City's written answer as provided to the Union at Step 3:

- (a) The arbitration proceeding shall be conducted by an arbitrator selected by the City and the Union within ten (10) days after notice has been given. If the parties fail to agree to the selection of an arbitrator, the Federal Mediation and Conciliation Service (FMCS) shall be requested by either or both parties to submit simultaneously to both parties an identical list of seven (7) names of persons from their grievance arbitration panel, who are members of the National Academy of Arbitrators and who are residents of Illinois, Wisconsin or Indiana, but maintain an Illinois office. Each party retains the right to reject one panel in its entirety and request that a new panel be submitted. Both the City and the Union shall have the right to strike three (3) names from the list. The parties by a toss of the coin shall determine which party shall first strike one (1) name; the other party shall then strike one (1) name. The process will be repeated twice and the remaining named person shall be the arbitrator. In the case of interest arbitration, arbitrators shall be selected from a panel of seven (7) arbitrators provided by FMCS who are members of the National Academy of Arbitrators, are residents of Illinois, Wisconsin or Indiana but maintain an Illinois office, and whose experience includes conducting at least two (2) interest arbitration disputes in the public sector in Illinois.
- (b) The arbitrator shall be notified of his/her selection and shall be requested to set a time and place for the hearing, subject to the availability of Union and City representatives.
- (c) The City and the Union shall have the right to request the arbitrator to require the presence of witnesses or documents. The City and the Union retain the right to employ legal counsel.

- (d) The arbitrator shall submit his/her decision in writing within thirty (30) calendar days following the close of the hearing or the submission of briefs by the parties, whichever is later, unless the parties mutually agree to an extension requested by the arbitrator.
- (e) More than one grievance may be submitted to the same arbitrator where both parties mutually agree in writing.
- (f) The fees and expenses of the arbitrator shall be divided equally between the City and the Union; provided, however, that each party shall be responsible for compensating its own representatives and witnesses. If both parties desire a transcript, the cost shall be split equally between the City and the Union; if only one party desires a transcript, that party shall be responsible for the cost.

Section 5.4. Limitations on Authority of Arbitrator. The arbitrator shall have no right to amend, modify, nullify, ignore, add to, or subtract from the provisions of this Agreement. The arbitrator shall consider and decide only the issue or issues as to whether there has been a violation, misinterpretation or misapplication of the specific provision(s) of this Agreement, as well as determining the appropriate remedy, if applicable. The arbitrator shall have no authority to render a decision on any issue not raised during the processing of the grievance at Step 3 prior to arbitration. The arbitrator shall be without power to make any decision or award which is contrary to or inconsistent with this Agreement or applicable federal or superseding state laws, or of rules and regulations of federal or state administrative bodies that have the force and effect of law. Any decision or award of the arbitrator rendered consistent with the authority under this Section 5.4 shall be final and binding upon the City, the Union and the employees covered by this Agreement.

Section 5.5. Time Limit for Filing. No grievance shall be entertained or processed unless it is submitted at Step 1 within seven (7) calendar days after the first occurrence of the event giving rise to the grievance or within seven (7) calendar days after the grievant, through

the use of reasonable diligence, could have obtained knowledge of the first occurrence of the event giving rise to the grievance.

If a grievance is not presented by the grievant or appealed to the next step within the time limits set forth above, it shall be considered “waived” and may not be pursued further. If the City does not answer a grievance or an appeal thereof within the specified time limits, the grievant may elect to treat the grievance as denied at the step and immediately appeal the grievance to the next step, provided that the time limits for any appeal shall be extended an additional seven (7) calendar days. The parties may by mutual agreement in writing extend any of the time limits set forth in this Article.

Section 5.6. Miscellaneous. No member of the bargaining unit who is serving in an acting capacity shall have any authority to respond to a grievance being processed in accordance with the grievance procedure set forth in this Article. Moreover, no action, statement, agreement, settlement, or representation made by any member of the bargaining unit shall impose any obligation or duty or be considered to be authorized by or binding upon the City unless and until the City has agreed thereto in writing.

Section 5.7. Processing of Grievances. Grievances may be investigated and processed by on-duty employees after 6:00 p.m. with the prior approval of the Shift Battalion Chief, provided such approval shall not be unreasonably withheld. No such activities shall interfere with assigned duties and responsibilities or the normal operations of the Fire Department.

Employees selected by the Union to act as Union representatives shall be known as “Stewards”. The names of the employees selected as Stewards or other Union representatives who may represent employees at each step of the grievance procedure shall be certified in writing to the City by the Union.

Any Union representative whose participation is necessary in grievance meetings between the Union and City held pursuant to the provisions of this Article shall be released from work without loss of pay to attend such meetings. Grievance meetings between the Union and City shall be scheduled in a manner which does not interfere with City operations.

ARTICLE VI

NO STRIKE-NO LOCKOUT

Section 6.1. No Strike. Neither the Union nor any officers, agents or employees covered by this Agreement will instigate, promote, sponsor, engage in, or condone any strike, sympathy strike, slowdown, sit down, concerted stoppage of work, or any other intentional interruption or disruption of the operations of the City, regardless of reason for so doing.

Section 6.2. No Lockout. The City will not lock out any employees during the term of this Agreement as a result of a labor dispute with the Union.

ARTICLE VII

HOURS OF WORK AND OVERTIME

Section 7.1. Purpose. This Article is intended to define the normal hours of work and to provide the basis for the calculation and payment of overtime and shall not be construed as a guarantee of hours of work per day or per week, or as a guarantee of days of work per week.

Section 7.2. Normal Work Day and Work Week. The normal work day and work week for employees assigned to 24-hour shifts shall be 24 consecutive hours of work (one shift) followed by 48 consecutive hours off (two shifts). Twenty-four hour shifts shall start and end no earlier than 7 a.m. or no later than 8:00 a.m. To reduce the average annual hours of work to an average of 51.85 hours per week, each employee shall earn $\frac{3}{4}$ of a Kelly Day per month (nine (9) Kelly days per year, *i.e.*, nine 24-hour shifts off each calendar year), five (5) of which shall be in lieu of holidays/personal days. Kelly days shall be scheduled as provided in Section 10.4 of Article X. If at the time of termination, an employee has earned but has not used Kelly days, calculated through his/her last full payroll period, said Kelly days shall be paid at the employee's rate of pay at the time of termination. In the event of death, any Kelly days earned but unused shall be paid to the designated beneficiary of the deceased employee and if none, to his/her estate.

Section 7.3. FLSA Normal Work Cycle. The FLSA normal work cycle for employees assigned to 24-hour shifts shall be 27 days.

Section 7.4. Changes in Shift Schedule. Should it be necessary in the City's judgment to change the shift schedule of an employee or employees from one 24-hour shift to another, the City will give, if practicable, at least one week's advance notice of such change to all employees affected by such change.

Section 7.5. Overtime Pay.

(a) Regular Overtime Pay. Employees shall be paid one and one-half times their regular straight time hourly rate of pay for all hours worked in excess of their regularly scheduled 24-hour shifts.

(b) FLSA Overtime Pay. In addition to regular compensation, an employee shall be paid one-half times his/her regular straight time hourly rate of pay for all hours of actual work on his/her regularly scheduled shifts in excess of 204 hours of actual work in any 27-day work cycle. Overtime shall be paid by rounding to the nearest one-tenth (1/10th) of an hour (six (6) minutes) increment.

Section 7.6. Computation of Straight Time Hourly Rate of Pay. The straight-time hourly rate of pay for employees shall be calculated by dividing the employees' annual base salary by the annual hours of work. The annual hours of work used to compute the regular straight-time hourly rate of pay shall be 2,696.

Section 7.7. Distribution of Overtime. In non-emergency overtime assignment situations the following policy shall be followed:

1. Two annual Overtime Assignment Records shall be maintained, one (1) for non-emergency overtime assignments and one (1) for Special Events overtime. They shall be available at both stations and include all overtime worked, except for hours accumulated for call backs, emergency calls, or mandatory overtime. Three annual Overtime Assignment Records shall be maintained, one (1) for non-emergency overtime assignments of more than 10 hours, one (1) for non-emergency overtime assignments of 10 hours or less, and one (1) for Special Events overtime.
2. All personnel shall be included on each list by rank and then by seniority. If the employee most eligible does not choose to work the overtime, it will be offered to the next most eligible employee.
3. Providing there are two (2) officers on duty, the overtime will be offered to a firefighter that is the next most eligible on the list. If no firefighter accepts the overtime then the next eligible officer will be offered the overtime. If there is only

one officer on duty, then the overtime will be offered to the next eligible officer on the list.

4. In the event no one volunteers for overtime, the Battalion Chief has the authority to assign an employee going off shift. Mandatory overtime shall be assigned to the least senior member available and qualified to fill the vacancy. Mandatory overtime for officers (only when there are less than two officers on duty) will be filled by the least senior available and qualified Lieutenants on the off going shift.
5. Special Events Overtime is defined as overtime for certain events that the Fire Chief or his designee determines are in the best interest of the Elmhurst Fire Department. Special Events Overtime may be posted and assigned approximately two weeks or more ahead of the event. All sworn personnel shall be included on the list for Special Events Overtime by rank and then by seniority.
6. In the event of an immediate need for a duty replacement, the Battalion Chief or Acting Battalion Chief, shall secure a replacement as soon as possible, and may arrange for a readily available off-duty employee to work the time until the normal overtime assignment is made.
7. The Battalion Chief, or Acting Battalion Chief, shall comply with the following procedures:
 - a. The process of securing overtime shall begin as early as possible.
 - b. A "Call for Overtime" procedure shall be used to contact employees in order to offer overtime. Overtime, however, must be accepted no later than 7:00 a.m.
 - c. When there is more than one slot of available overtime, the employee with least amount of accumulated hours shall be given the choice of overtime.
 - d. If it is determined that an employee has not received an appropriate share of overtime opportunities, the list shall immediately be corrected to reflect such if needed, and such employee shall have first preference for the next available overtime.
 - e. Mandatory overtime can be split into smaller segments if others volunteer to accept a portion of the overtime. For mandatory overtime which is split, the employee who volunteers to take the remaining shift, not the original force back employee, will have those overtime hours volunteered for and worked recorded in his/her overtime bank calculation.
 - f. The Fire Department will guarantee two (2) hours of overtime for any assignment given and reported to but not contiguous with the employee's normally scheduled shift, and for any overtime assignment that the employee reports for that is canceled.

8. Nothing in this Agreement shall require the City to interrupt work in progress at the end of an employee's normally scheduled shift (e.g. a fire call).
9. All overtime hours are reset at the end of the year, therefore all employees will start January 1st with zero (0) overtime bank hours.
10. The following overtime situations will not be recorded on employee overtime list: mandatory, wire watches, any A.S.A.P. emergency coverage, coverage hold-overs (employees mandated to switch stations), late fire or EMS calls.

Section 7.8. Duty Trades. Employees shall be entitled to request duty trades between employees of equal rank (*i.e.*, firefighter for firefighter and officer for officer), with the approval of the Fire Chief or his designee. Such requests must be submitted, absent extenuating circumstances, to the Fire Chief or his designee at least one week in advance and shall not be unreasonably denied. In the event a firefighter who agreed to work a duty trade calls in sick for the agreed upon day, the firefighter calling in sick will be subject to the provisions in Section 8.3 of this Agreement governing the use of sick leave. The granting of a duty trade shall not result in the payment of overtime to either of the employees involved in the trade.

Section 7.9. Kelly Day Trades. Once Kelly days have been scheduled for the following year, an employee may request to trade a Kelly day with another employee on the same shift as long as there will be two officers on duty on both ends of the trade. Such requests must be submitted, absent emergency circumstances, to the Fire Chief or his designee at least one week in advance and shall not be unreasonably denied. Any approved Kelly day trade shall be considered a duty trade for purposes of the FLSA and shall not result in the payment of overtime to either of the employees involved in the trade.

Section 7.10. Holiday Pay. The following seven and one-half (7 ½) days shall be considered paid holidays for employees assigned to 24 hour shifts:

- New Year's Day
- Easter Sunday
- Memorial Day (Observed Monday)
- July 4th
- Thanksgiving Day
- Christmas Eve
- Christmas
- (½ day) New Year's Eve (2nd half of shift)

These days shall be the actual holiday; not the City's recognized holiday, if there is discrepancy.

In lieu of holiday pay, time off for holidays, and/or premium pay for working on a holiday, an additional 4.0% shall be added to each employee's base salary each year.

Section 7.11. Call-In Pay. An employee who is called back to work outside the employee's normal hours of work (*i.e.*, hours not contiguous to his/her normal shift), will be paid 1-1/2 times his/her regular straight-time hourly rate of pay for all hours worked outside his/her normal hours of work, with a minimum of one (1) hour's compensation for each extra alarm emergency and a minimum of two (2) hour's compensation when called back to work on an unscheduled shift; an employee who replaces an employee on duty after 6 a.m. will be paid for the time actually worked. The time spent responding to an extra alarm emergency shall be considered as one extra alarm emergency until such time as released by the Battalion Chief; if an employee is recalled for another extra alarm emergency after being released by the Battalion Chief, it shall be considered as a new extra alarm emergency which qualifies for an additional one (1) hour's minimum compensation even if such alarm occurs within the same hour.

Section 7.12. No Pyramiding. Compensation shall not be paid more than once for the same hours under any provision of this Article or Agreement.

ARTICLE VIII

LEAVES OF ABSENCE

Section 8.1. Jury Leave. Any employee who is subpoenaed or otherwise required to serve on a jury shall be excused from work without loss of regular straight-time pay for the days or portions thereof on which the employee must be present for such service and on which the employee would have otherwise been scheduled to work. The employee shall submit a certificate evidencing that he/she appeared and served as a juror and shall remit any witness fee in order to receive pay for such jury service. The employee may retain any money received to cover travel, meal, and/or lodging expenses. An employee shall report to work during any part of a scheduled duty shift when he/she is not required to be in court for jury duty as provided above.

Section 8.2. Military Leave. Military leave shall be granted in accordance with State and Federal Law.

Section 8.3. Sick Leave.

(a) Accrual. Sick leave is earned at the rate of 12 hours for each month the employee is paid for at least 96 hours and may be accumulated to a maximum of 1,800 hours.

(b) Use of Sick Leave. Sick leave may be used only for an employee's own sickness or disability or for the sickness, birth or death of someone in the employee's immediate family. Immediate family shall be defined as the employee's spouse, civil union partner, brother, sister, father, mother, children, step-children, father-in-law, mother-in-law, and any member of the employee's household. Additionally, an employee may, with the Chief's or designee's approval, which shall not be unreasonably denied, utilize sick time in increments no less than 2 hours, as

bereavement leave, due to the death of an individual outside of the employee's immediate family, but of significance to the employee.

If an employee is unable to work due to illness, the employee must inform his/her supervisor if at all possible at least one hour prior to the start of the scheduled work day. An employee's failure to inform his/her supervisor each day of absence, or at agreed intervals in the case of an extended illness, will result in a loss of that day's pay. Employees will comply with reasonable reporting rules as may be established by the Fire Chief.

If an employee calls in before the start of the employee's shift, such use of sick leave shall be charged to accrued sick leave in 12 hour increments, unless the sick leave is being used for a doctor's appointment, in which case prior notice must be given and sufficient verification provided (*i.e.*, doctor's note). Sick leave for a doctor's appointment shall be used at a minimum initial increment of two (2) hours and thereafter charged in one (1) hour increments to accrued sick leave. If an employee uses sick leave after the start of the employee's shift, such use shall be charged to accrued sick leave in one (1) hour increments.

The Fire Chief has the right to verify the reported sickness of an employee and may require a doctor's certificate for absence due to sickness. The certificate must state the kind and nature of the sickness or injury and whether the employee has been incapacitated for work for said period of time. Failure to provide such a certificate shall result in the employee receiving no compensation for the absence.

(c) Annual Sick Leave Buyback. An employee who has accumulated more than 1,080 hours of sick leave shall be paid annually for one-half of the current annual net accumulation of sick leave hours at the employee's salary as of April 30. The remaining one-

half of the current net accumulation shall be added to the employee's accumulated sick leave.

Examples:

1. If an employee has more than 1,080 hours of accumulated sick leave and the employee's annual net accumulation of sick leave is 96 hours (*i.e.*, the employee earned 144 hours and used 48 hours during the fiscal year), the employee shall be paid 48 hours pay at the employee's regular straight-time hourly rate of pay as of April 30. The remaining 48 hours shall be added to the employee's accumulated sick leave.
2. If an employee has 1,056 hours of sick leave as of the start of the fiscal year and the employee's annual net accumulation is 72 hours (*i.e.*, the employee earned 144 hours and used 72 hours of sick leave), the employee shall be paid 24 hours' pay (*i.e.*, one-half of the current annual net accumulation above 1,080). The remaining 24 hours shall be added to the employee's accumulated sick leave.

(d) Sick Leave Buyback at Termination. An employee who has completed 20 years or more of service (including time on disability pension) shall be compensated for his/her accumulated sick leave up to a maximum of 1,080 hours upon retirement, voluntary termination, or death. Computation of the amount shall be based on an employee's regular straight-time hourly rate of pay at the time of retirement, voluntary retirement, death or the date the employee goes on disability pension, whichever is applicable. In case of death of the employee, payment shall be made to the employee's designated beneficiary or estate.

Section 8.4. Personal Leave. An employee may, with approval of the Fire Chief or his designee, be granted not more than 32 hours personal leave per fiscal year. Such day shall be non-cumulative and, if approved and used, shall be charged to the employee's accumulated sick leave. Personal leave time shall be taken in increments of four (4) hours or greater. The purpose for personal leave is to provide for an unforeseen emergency or for legitimate business, professional, family obligations, or personal business, none of which can be accomplished outside the employee's normal work schedule.

Section 8.5. Unpaid Special Leaves of Absence. Employees may, upon written request, be granted special leave of absence without pay for the following reasons:

1. To enable an employee who is physically or mentally incapacitated to recover his/her health;
2. To enable an employee to engage in a course of study that will increase his/her usefulness to the City service;
3. Family leave, limited to a total of 150 calendar days, 90 of which may be subsequent to the birth date of the child;
4. Other equally good reasons considered valid by the City Manager.

Special leaves are granted subject to the following conditions:

1. Original requests for special leave of absence without pay shall be for a period not to exceed one year in duration.
2. The requesting employee shall state the reasons why in his/her opinion the request should be granted, the date when the employee desires the leave to begin, and the probable date of return.
3. The City Manager may approve or disapprove such request on the basis of the operational requirements of the Department, availability of temporary substitute employees, and/or the work and attendance record of the employee, consistent with Article XV, Section 15.11, and 65 ILCS 5/10-2.1-4.
4. Employees wishing to take such leaves of absence must realize that all positions in the City are subject to elimination by reorganization, consistent with applicable laws. Absolute assurance of reinstatement cannot be given, unless otherwise required by law. However, if the position is still in existence at the conclusion of the period, the employee shall resume the status therein. If the position no longer exists, every effort will be made to place the employee as soon as practical, in a position deemed appropriate by the City Manager, given the employee's skills, knowledge and ability.
5. Vacation, sick leave and seniority will not accrue for employees on a special leave of absence.
6. Subject to prepayment of the applicable premium, Health, Life and Dental Care benefits will be available to eligible employees and their dependents during the leave of absence period; provided, however, for unpaid family responsibility leave as defined in the Family and Medical Leave Act of 1993, the City will continue to pay its share of the cost to maintain health insurance coverage for employees who have worked at least 1,250 hours over the previous twelve (12) months for up to

twelve weeks per year. If the employee fails to return to work at the conclusion of the approved unpaid leave of absence for reasons other than the serious health condition of the employee or an immediate family member, the employee shall repay to the City the premiums paid on the employee's behalf to maintain insurance coverage while on unpaid family responsibility leave.

7. An unpaid leave of absence will not be granted to enable an employee to try for or accept employment elsewhere.

Section 8.6. Family and Medical Leave Act. In order to be in compliance with the Family and Medical Leave Act of 1993 ("FMLA") and applicable rules and regulations, the parties agree that the City may adopt policies to implement the Family and Medical Leave Act of 1993 that are in accord with what is legally permissible under the Act and the applicable rules and regulations.

ARTICLE IX

SALARIES AND OTHER COMPENSATION

Section 9.1. Salaries.

Effective June 1, 2020, firefighters covered by this Agreement shall be paid on the basis of the following:

<u>Step</u>	<u>Eff. 6/1/2020 (1.50%)</u>
A (start)	\$73,923
B (1 year)	\$77,364
C (2 years)	\$80,807
D (3 years)	\$84,246
E (4 years)	\$87,695
F (5 years)	\$94,365
G (6 years)	\$99,410
H (15 years)	\$100,247

The increases in salaries for firefighters and lieutenants shall be retroactive to June 1, 2020 for employees still on the active payroll on the date of execution of this Agreement, provided that any employee who retired or received a disability pension on or after June 1, 2020, but before the date of execution of this Agreement shall also be eligible to receive retroactive pay based on the hours worked between June 1, 2020, and the date of retirement or date of commencement of receipt of a disability pension. Payment shall be made on an hour for hour basis for all regular hours worked since June 1, 2020, as well as all hours of paid leave, vacation, holiday pay and overtime hours since June 1, 2020.

Effective January 1, 2021, firefighters covered by this Agreement shall be paid on the basis of the following:

<u>Step</u>	<u>Eff. 1/1/2021 (2.25%)</u>
A (start)	\$75,587
B (1 year)	\$79,105
C (2 years)	\$82,625
D (3 years)	\$86,142
E (4 years)	\$89,668
F (5 years)	\$96,488
G (6 years)	\$101,647
H (15 years)	\$102,503

The increases in salaries for firefighters and lieutenants shall be retroactive to January 1, 2021 for employees still on the active payroll on the date of execution of this Agreement, provided that any employee who retired or received a disability pension on or after January 1, 2021, but before the date of execution of this Agreement shall also be eligible to receive retroactive pay based on the hours worked between January 1, 2021, and the date of retirement or date of commencement of receipt of a disability pension. Payment shall be made on an hour for hour basis for all regular hours worked since January 1, 2021, as well as all hours of paid leave, vacation, holiday pay and overtime hours since January 1, 2021.

Effective January 1, 2022, firefighters covered by this Agreement shall be paid on the basis of the following:

<u>Step</u>	<u>Eff. 1/1/2022 (2.25%)</u>
A (start)	\$77,287
B (1 year)	\$80,885
C (2 years)	\$84,484
D (3 years)	\$88,080
E (4 years)	\$91,686
F (5 years)	\$98,659
G (6 years)	\$103,934
H (15 years)	\$104,809

Effective July 1, 2022, firefighters covered by this Agreement shall be paid on the basis of the following:

<u>Step</u>	<u>Eff. 7/1/2022 (0.25%)</u>
A (start)	\$77,480
B (1 year)	\$81,087
C (2 years)	\$84,695
D (3 years)	\$88,300
E (4 years)	\$91,915
F (5 years)	\$98,906
G (6 years)	\$104,194
H (15 years)	\$105,071

Fire Lieutenant Salaries.

Effective June 1, 2020, fire lieutenants covered by this Agreement shall be paid on the basis of the following:

<u>Step</u>	<u>Eff. 6/1/2020 (1.50%)</u>
A	\$104,942
B	\$109,083
C	\$113,384
D	\$118,223
E	\$119,060

Effective January 1, 2021, fire lieutenants covered by this Agreement shall be paid on the basis of following:

<u>Step</u>	<u>Eff. 1/1/2021 (2.25%)</u>
A	\$107,303
B	\$111,537
C	\$115,935
D	\$120,883
E	\$121,739

Effective January 1, 2022, fire lieutenants covered by this Agreement shall be paid on the basis of the following:

<u>Step</u>	<u>Eff. 1/1/2022 (2.25%)</u>
A	\$109,717
B	\$114,047
C	\$118,544
D	\$123,603
E	\$124,478

Effective July 1, 2022, fire lieutenants covered by this Agreement shall be paid on the basis of the following:

<u>Step</u>	<u>Eff. 7/1/2022 (0.25%)</u>
A	\$109,991
B	\$114,332
C	\$118,840
D	\$123,912
E	\$124,789

Section 9.2. Step Increments.

(a) Firefighters. Employees shall advance to the next step (up through and including Step G) on the anniversary of their employment, provided it has been determined through the performance appraisal process that they have met departmental standards during the preceding year. Notwithstanding the foregoing, firefighters shall move to Step G of the salary schedule after six (6) years continuous unbroken service with the City in a position covered by this Agreement. Notwithstanding the foregoing, firefighters shall move to Step H after fifteen (15) years continuous, unbroken service with the City in a position covered by this Agreement.

(b) Fire Lieutenants. Firefighters who at the time of their promotion to lieutenant are at Step E or below on the Firefighter Salaries schedule will start at Step A of the Fire Lieutenant Salaries schedule. They shall be eligible to move to Step B after six months; Step C on the first year anniversary of promotion and Step D on the second anniversary of promotion, provided it has been determined through the performance appraisal process that they have met departmental standards during the preceding six months or year, whichever applies. Firefighters at Steps F and G of the Firefighter Salaries schedule will start at Step B of the Fire Lieutenant Salaries schedule. They shall be eligible to move to Step C at the first anniversary of promotion and Step D on the second anniversary of promotion, provided it has been determined through the performance appraisal process that they have met departmental standards since the last step increase. Lieutenants who have served a year in Step D shall be eligible for Step E if they have completed 15 years of service to the Department, regardless of rank.

Section 9.3. Acting Pay. Fire Lieutenants who are assigned to serve as acting Battalion Chiefs shall be paid an additional sum representing 75% of the difference between the Fire

Lieutenant's hourly rate of pay and the Battalion Chief's first step hourly rate of pay for the time during which they are so assigned.

Firefighters who are assigned to serve as acting Lieutenants shall be paid an additional sum representing 75% of the difference between the Firefighter's Step G hourly rate of pay and the Fire Lieutenant's second step hourly rate of pay (*i.e.*, Step B) for the time during which they are so assigned.

ARTICLE X

VACATIONS

Section 10.1. Eligibility. Employees shall be eligible for paid vacation time after the completion of their probationary period with the City. Employees shall start to earn vacation allowance as of the date of hire. Vacation allowance shall be earned monthly, based on the following schedule:

<u>Length of Continuous Service</u>	<u>No. of 24-Hour Shifts</u>
1 year but less than 6 years	7
6 years but less than 13 years	9
13 years but less than 20 years	11
20 years or more	13

Section 10.2. Vacation Eligibility. In order to be eligible for a paid vacation, an employee must, as of his anniversary date of employment, have been continuously employed in a position covered by this Agreement.

Section 10.3. Vacation Pay. Vacation pay shall be computed on the basis of the employee's straight-time hourly rate of pay in effect for the employee's regular job classification during the period of time he/she is on vacation (including any scheduled pay increase that may become applicable during said period).

Section 10.4. Vacation Scheduling. Both vacation and Kelly day picks shall be made between November 1st and December 31st for the following calendar year, starting with the most senior employee by rank (including Battalion Chiefs) in accordance with current practice. All vacation picks shall be in increments of at least one duty day. Kelly days shall be picked one day at a time after vacation picks have been made. Two (2) slots per duty day shall be allotted

for vacation and Kelly day picks. A maximum of one (1) officer shall be allowed off on any work day.

Notwithstanding anything to the contrary in this Section 10.4, in accordance with existing practice, each shift shall be allowed to pick 50 shift days where three personnel can be off on either a vacation and/or Kelly day. If the additional 50 slots are not enough to permit all personnel to schedule all available vacation and Kelly days, the parties agree to reopen this paragraph to address such situation. Any impasse shall be resolved in accordance with Section 14 of the IPLRA.

Section 10.5. Limitation on Accumulation of Vacation. Annual vacations are to be taken within the 12-month period after completion of the year in which earned unless written authorization extending this period is obtained from the Fire Chief and the City Manager. In no event shall the maximum vacation carryover exceed five (5) 24-hour shifts.

Section 10.6. Pay For Earned But Unused Vacation Upon Termination. If at the time of termination, an employee has earned but has not used vacation time, calculated through his/her last full payroll period, said vacation time shall be paid at the employee's rate of pay at the time of termination. In the event of death, any vacation earned but unused shall be paid to the designated beneficiary of the deceased employee and if none, to his/her estate.

ARTICLE XI

INSURANCE

Section 11.1. Health Benefit Plan. The health benefit plan in effect when this Agreement is ratified shall be continued during the term of this Agreement; provided, the City reserves the right to change insurance carriers, benefit levels, or to self insure as it deems appropriate, as long as the new basic coverage and basic benefits are substantially similar to those which predated this Agreement. Employees may elect single, single plus 1, or family coverage in the City's health benefit plan during the enrollment period established by the City. The employees shall pay thirteen percent (13%) of the cost of single or dependent health insurance coverage under the City's self-insured Comprehensive Health Plan and the City shall pay the balance of the cost. Effective January 1, 2015, the employees shall pay thirteen percent (13%) of the cost of single or dependent coverage under the City's Comprehensive Health Plan for coverage under either the HSA or HMO plan or fifteen percent (15%)* of the cost of single or dependent coverage under the City's Comprehensive Health Plan for PPO coverage, and the City shall pay the balance of the cost. Effective January 1, 2016, the employee shall pay thirteen percent (13%) of the cost of single or dependent coverage under the City's Comprehensive Health Plan for coverage under either the HSA or HMO plan or twenty percent (20%) of the cost of single or dependent coverage under the City's Comprehensive Health Plan for PPO coverage, and the City shall pay the balance of the cost. Provided, however, that the percentage increase in the amount paid by the employee for either single or dependent coverage shall be capped at not more than twenty-five percent (25%) in any given year.

(* As a *quid pro quo* for such change, the City shall add 0.75% to the salary schedule, effective January 1, 2015.)

Effective January 1, 2015, for employees electing coverage under the HSA plan, the City shall contribute to each covered employee's HSA account, an amount equal to 50% of the deductible for whichever coverage the employee elects, but not less than \$1,300 for single coverage or \$2,600 for family coverage.

Notwithstanding the foregoing, bargaining unit employees shall not be required to pay a higher percentage of the premium cost than the unrepresented sworn employees of the Fire Department.

The parties further agree that at any time following thirty (30) days after execution of this Agreement by both parties, the Union may reopen Sections 11.1 through 11.5 of the Agreement, for the purpose of negotiating to replace the City's group health insurance plans with AFFI-sponsored health insurance plans. Any impasse regarding this reopener shall be resolved in accordance with Section 14 of the Act. By agreeing to the modifications to insurance in this Agreement, the Union is not precluded from exercising its right to reopen negotiations concerning Sections 11.1 through 11.5 of this Agreement, in accordance with the foregoing, but an interest arbitrator appointed pursuant to Section 14 of the Act shall be limited to considering the Union's proposal regarding AFFI-sponsored health plans or the existing language of Sections 11.1, as set forth hereinabove, through 11.5. By entering into this Agreement, neither party is waiving any position regarding the weight to be accorded to the City's proposal in interest arbitration.

Section 11.2. Dental Plan. The dental plan in effect when this Agreement is ratified shall be continued for the balance of the term of this Agreement; provided, however, the City retains the right to change insurance carriers or to self insure as it deems appropriate, as long as

the new basic coverage and basic benefits are equivalent to those which predated this Agreement. During the enrollment period established by the City an employee may elect coverage under one of the plans offered by the City. For single coverage under the plan chosen by the employee, the City will pay \$13.86 per month and the balance of the cost will be deducted from the employee's paycheck. For "employee-plus-one," the City will pay \$21.13 per month and the balance of the cost shall be deducted from the employee's paycheck. For family coverage under the plan chosen by the employee, the City will pay \$39.25 per month and the balance of the cost shall be deducted from the employee's paycheck.

Section 11.3. Life Insurance. The City will provide term life insurance in the amount of one times the employee's base salary. The City retains the right to change insurance carriers or to self-insure this benefit as long as the amount is maintained, *i.e.*, one times the employee's base salary.

Section 11.4. Cost Containment. The City reserves the right to maintain or institute cost containment measures relative to insurance coverage so long as the basic level of insurance benefits remains equivalent. Such changes may include, but are not limited to, mandatory second opinions for elective surgery, pre-admission and continuing admission review, prohibition on weekend admissions except in emergency situations, bounty clause, and mandatory out-patient elective surgery for certain designated surgical procedures.

Section 11.5. Terms of Policies to Govern. The extent of coverage under the insurance policies referred to in this Article shall be governed by the terms and conditions set forth in said policies. Any questions concerning coverage shall be resolved in accordance with the terms and conditions in said policy and shall not be subject to the grievance procedure set forth in this Agreement.

Section 11.6. Right to Maintain Coverage While on Unpaid Leave or on Layoff. An employee who is on an approved unpaid leave of absence or who is on layoff with recall rights or retired shall have the right to maintain insurance coverage by paying monthly in advance the full applicable monthly premium for employee coverage and, if desired, for dependent coverage; provided, that an employee who is on unpaid FMLA leave shall be entitled to maintain health insurance coverage, as required by the FMLA, as then in effect.

Section 11.7. Insurance Committee. An Insurance Committee shall be formed consisting of six (6) members. Three (3) members shall be appointed by the Employer and three (3) members shall be appointed by the Union, unless a member from the Police bargaining unit or from the group of non-represented employees determines to participate in the Committee, at which time the Union will relinquish one member per bargaining unit/employee group which participates, and the Police union and/or the non-represented employee group shall appoint their member(s) to the Insurance Committee. Any FLSA exempt employee shall not be eligible to serve as the Insurance Committee member for the non-represented employee group, but may be eligible to serve as an Employer member of such Committee.

The Insurance Committee shall meet at least monthly, during the first week of the month, unless it is agreed by a majority of the Committee members to cancel the monthly meeting. No more than one bargaining unit Committee member per shift shall be released from duty, in order to attend such Insurance Committee meetings, if scheduled to work during such meeting. Bargaining unit members shall not otherwise be compensated by the Employer for attending such Insurance Committee meetings.

A quorum for Insurance Committee meetings shall consist of four (4) Committee members. Any motion shall require the affirmative vote of four (4) Committee members, in

order to be adopted. A Committee member may provide his/her vote by proxy to another Insurance Committee member. If either the Employer or Union representative(s) fails to vote in favor of a motion, resulting in a deadlock (tie) vote, the party rejecting the motion shall provide in writing to the other Committee members the reason(s) for rejecting the motion, within 48 hours of the vote.

The Insurance Committee shall investigate, explore and discuss alternative arrangements for hospital, medical, dental, and vision plans. The Employer shall endeavor to make all relevant information available and this Committee will be empowered to research available insurance plans, comparing their costs and benefits, and invite representatives of insurance plans to the Committee meetings for the purpose of providing information, presenting new plans and options and answering questions. Committee recommendations shall be made to the Employer and to the principal officer of each Union who has representation on the Committee. If the Committee recommendations are not accepted by the parties, any unresolved issues shall be subject to the impasse procedures provided for pursuant to Section 14 of the Illinois Public Labor Relations Act. Notwithstanding the above, nothing herein shall preclude the Employer or the Union from making any proposals regarding health insurance during the bargaining process for any successor agreement.

ARTICLE XII

MANAGEMENT RIGHTS

Except as specifically modified by other articles of this Agreement, the Union recognizes the exclusive right of the City to make and implement decisions with respect to the operation and management of its operations in all respects. Such rights include but are not limited to the following: to plan, direct, control and determine all the operations and services of the City; to supervise and direct the working forces; to establish the qualifications for employment and to employ employees; to schedule and assign work; to establish work and productivity standards and, from time to time, to change those standards; to assign overtime; to determine the methods, means, organization and number of personnel by which operations are conducted; to determine whether goods or services are made or purchased; to make, alter and enforce reasonable rules, regulations, orders and policies; to evaluate employees; to change or eliminate existing methods, equipment or facilities; and to carry out the mission of the City; provided, however, that the exercise of any of the above rights shall not conflict with any of the express written provisions of this Agreement.

In the event of a civil emergency, which may include but is not limited to riots, civil disorders, tornado conditions, floods, or other emergencies, as declared by the City Manager or Fire Chief, the City may take any and all actions that may be necessary to carry out the mission of the Employer, which actions may include the suspension of the provisions of this Agreement, provided that wage rates and monetary benefits shall not be suspended and that all provisions of the Agreement shall be promptly reinstated once a civil emergency condition ceases to exist.

ARTICLE XIII

DISCIPLINE AND DISCHARGE

Section 13.1. Applicability of Illinois Board of Fire and Police Commissioners Act. The discipline and discharge of employees covered by this Agreement, and the appeal rights of employees who are disciplined or discharged, shall be governed by the provisions of the Illinois Board of Fire and Police Commissioners Act, except as provided hereinafter.

Section 13.2. Appeal of Discipline. The employee may file a written reply to any reprimand. Except for oral reprimands, a grievance may be filed as to disciplinary actions instituted against an employee in accordance with the procedures set forth in Article V of this Agreement. Written reprimands are subject to the grievance procedure only through Step 3 (City Manager). If the City seeks to use a written reprimand for the imposition of more severe discipline, and the original discipline was grieved, the merits of the written reprimand may be raised by the employee in arbitration, unless the grievance regarding such written reprimand was withdrawn or settled. Disciplinary actions or discharge of a probationary employee shall not be subject to the grievance and arbitration procedures of this Agreement.

Disciplinary action in the nature of a suspension or discharge shall be subject to the following steps:

A. If the discipline is a suspension of five (5) consecutive calendar days or less, the following steps will apply:

1. The Fire Chief shall serve a written notice of the suspension to the employee involved and submit a copy to the Union.
2. Upon receipt of the notice, if the employee seeks to appeal the disciplinary action, the Union may file a written grievance within the time limits provided in Article

V of this Agreement (seven (7) calendar days after service of the Chief's notice upon the employee and the Union). Such grievance shall be initiated at Step 3 of the grievance procedure (City Manager). If the Union decides to file a grievance, neither the Union nor the employee shall have any further right to contest such discipline before the Board of Fire and Police Commissioners. If the Union decides not to file a grievance, the employee may file an appeal of the suspension with the Board of Fire and Police Commissioners within the same time limits (seven (7) calendar days after service of the Chief's notice upon the employee and the Union). The employee shall have no other option to use the grievance/arbitration procedure regarding that discipline, if the Union has declined to file a grievance. Selection by the Union or employee of one process shall constitute a waiver of the other.

B. For suspensions in excess of five (5) calendar days or discharge, the parties agree to an alternative form of due process than that provided in 65 ILCS 5/10-2.1-17, and hereby acknowledge that, pursuant to its home rule authorities, the City has authorized the Fire Chief to have the authority to issue suspensions in excess of five (5) calendar days, not to exceed thirty (30) calendar days, and to discharge firefighters included in the bargaining unit. In the event that a suspension over five (5) calendar days or a discharge is imposed, the following steps shall apply:

1. The Fire Chief shall serve a written notice of the discipline to the employee involved and submit a copy to the Union.
2. Upon receipt of the notice, if the employee seeks to appeal the suspension or discharge, the Union may file a written grievance within the time limits provided in Article V of this Agreement (seven (7) calendar days after the service of the Chief's

notice upon the employee and the Union). If the Union decides to file a grievance, the grievance shall be initiated at Step 3 of the grievance procedure (City Manager) and the Fire Chief may immediately implement the penalty imposed by the Fire Chief. If the Union decides to file a grievance, neither the Union nor the employee shall have any further rights to contest such penalty before the Board of Fire and Police Commissioners, but their exclusive remedy shall be via the grievance and arbitration procedure set forth in Article V of this Agreement. If the Union decides not to file a grievance within the seven (7) calendar day period provided above, rather than imposing the penalty immediately, the Fire Chief shall proceed with filing charges before the Board of Fire and Police Commissioners, and the employee may contest such charges before the Board of Fire and Police Commissioners, and exercise applicable appeal rights pursuant to 65 ILCS 5/10-2.1-17, but shall have no other option to use the grievance/arbitration procedure for that discipline. Selection by the Union or the employee of one process shall constitute a waiver of the other.

Section 13.3. Progressive Discipline. Discipline and discharge is only for cause and the City agrees that where appropriate, the tenets of progressive discipline shall apply, although the City has the right to discipline (or seek discipline or discharge from the Board of Fire and Police Commissioners) at any level warranted for the offense in question.

Section 13.4. Right to Representation. Before conducting an interview of an employee which the City or the employee reasonably expects to lead to or results in discipline of the employee being questioned, the employee shall have the right to Union representation or legal counsel, if so requested by the employee. The employee may not insist, however, that any particular Union or legal representative be present where to do so will cause an unreasonable

delay of the interview. The role of any Union or legal representative shall be to advise the employee; however, the City has the right to have the employee's version of the facts and any explanation thereof without interruption from the representative. A copy of all discipline notices shall be provided to the Union.

Section 13.5. Interviews Concerning Off-Duty Actions. Before conducting any interview with an employee concerning off-duty actions which may lead to or result in further investigation and/or discipline of the employee being questioned, the employee shall be provided three calendar days' written notice of the interview, the reason therefore, and that the employee has the right to Union representation and legal counsel, if so requested by the employee, per Section 13.4. This notification may be revoked if, in the Chief's or designee's determination, there is an eminent safety consideration.

Section 13.6. Right to Request Removal of Disciplinary Actions from Personnel File. An employee may request to the Chief that disciplinary actions recorded in his/her personnel file be removed after one year of occurrence.

Section 13.7. Fireman's Disciplinary Act. Nothing contained herein shall be construed to diminish the rights of employees pursuant to the Fireman's Disciplinary Act, 50 ILCS 745/1, *et seq.*, which is incorporated herein by reference, and the foregoing rights set forth in this Article shall be in addition thereto.

ARTICLE XIV

PROMOTIONS TO THE RANK OF LIEUTENANT AND BATTALION CHIEF

Section 14.1. General. Promotions to the rank of Lieutenant and Battalion Chief shall be in accordance with the provisions of this Article and, if not otherwise covered by this Article, the applicable provisions of the Fire Department Promotion Act, 50 ILCS 742 (hereinafter the "Promotion Act"), a copy of which is attached hereto as Appendix A. Unless otherwise specifically provided in this Article, the promotion process to the ranks of Lieutenant and Battalion Chief shall be administered by the City of Elmhurst Human Resource Director. This Article shall supersede all Rules and Regulations of the Board of Commissioners of the City of Elmhurst specifically relating to the promotional process to the ranks of Lieutenant and Battalion Chief.

Section 14.2. Vacancies. A vacancy shall be deemed to occur in a position covered by this Article on the date upon which the position is vacated, and on that same date, a vacancy shall occur in all ranks inferior to that rank, provided that the position or positions continue to be funded and authorized by the City. If a vacated Lieutenant or Battalion Chief position is not filled due to the lack of funding or authorization and is subsequently reinstated, the final promotion list shall be continued in effect until all Lieutenant and/or Battalion Chief positions vacated have been filled or for a period of five (5) years beginning from the date on which the position was vacated, whichever occurs first. In such event, the candidate or candidates who would have otherwise been promoted when the vacancy originally occurred shall be promoted.

Section 14.3. Eligibility Requirements. The examination process for promotion shall be competitive among employees in the rank immediately below who meet the eligibility requirements set forth below and desire to submit themselves to such process.

Members of the bargaining unit shall be eligible to participate in the process for promotion to Lieutenant if they have successfully completed the probationary period for the rank of Firefighter.

Members of the bargaining unit shall be eligible to participate in the process for promotion to Battalion Chief if they have successfully completed the 12-month probationary period for the rank of Lieutenant.

Section 14.4. Components of the Promotional Process and the Weighting of Components. All examinations shall be impartial and shall relate to those matters that will test the candidate's ability to discharge the duties of the position to be filled. The placement of eligible candidates on a Lieutenant or Battalion Chief promotion list shall be based on the points achieved by the candidate on each of the following components to be conducted in the following order:

<u>Component</u>	<u>Promotions to Lieutenant</u>	<u>Promotions to Battalion Chief</u>
<u>Chief's Points</u>	10%	20%
<u>Seniority</u>	5%	N/A
<u>Ascertained Merit</u>	15%	10%
<u>Assessment Center</u>	15%	30%
<u>Written Examinations</u>	55%	40%

Each eligible candidate shall be entitled to participate in all components of the promotional process. If a candidate wishes to withdraw from the promotional process before the completion of all components of the promotional process, the candidate shall so advise the City of Elmhurst Human Resource Director in writing.

Section 14.5. Promotion Process Components. Each component shall be based on 100 points.

Chief's Points. The Fire Chief shall assign points based on his/her assessment of each candidate's qualifications and abilities to perform the duties of Lieutenant or Battalion Chief, whichever is applicable. The Chief's points shall be based on job related criteria. All rating factors shall be related to performance factors important to carrying out the major duties of the rank of Lieutenant or Battalion Chief. The Fire Chief shall assign points based on his/her assessment of each candidate's qualifications and abilities to perform the duties of Lieutenant or Battalion Chief. The criteria to judge each candidate's qualifications and abilities shall be limited to, and shall be required to include at least five of the following: leadership skills, management skills, technical skills, teamwork (including that evidenced by participation in departmental committees and activities), supervisory evaluations, decision making, interpersonal skills, and disciplinary history. Such criteria shall be disclosed to all candidates at least 90 days prior to the awarding of the points. The Fire Chief will submit his points to the City of Elmhurst Human Resource Director.

The Chief agrees to meet with all of the candidates at a meeting (or a second meeting to be scheduled not less than seven (7) days after the first meeting, only for employees who were unable to attend the first meeting) at which the Chief shall disclose the criteria to be used by the Chief in determining Chief's Points, and to explain the procedures to be utilized and the methodology to be employed for determining the assignment of Chief's Points. Such meeting(s) shall be held at least ninety (90) days before the date of posting of Chief's Points. Within five (5) days of such meeting, unless the parties mutually agree to extend such time, any candidate may request a meeting with the Chief for the purpose of the candidate explaining his/her view of the candidate's strengths and weaknesses with respect to the criteria identified by the Chief at the meeting of the candidates, as described above. Such requests for a meeting shall be granted, provided that such meetings must be completed not later than thirty (30) days prior to the posting of the Chief's Points, and shall not delay the posting of Chief's Points.

After the posting of the Chief's Points, any candidate may request a copy of the scores and/or ratings which the candidate received on each of the criteria utilized by the Chief.

Seniority. Seniority shall be rated by rewarding five (5) points for each full year of service up to twenty (20) years, *i.e.*, up to a maximum of one hundred (100) points. This component of the promotion process shall only be applicable to promotions to the rank of Lieutenant.

Ascertained Merit. A maximum of 15% can be earned based on ascertained merit, which shall be determined on the basis of the following for the ranks of Lieutenant and Battalion Chief, based on the following:

LIEUTENANT ASCERTAINED MERIT	POINTS
Bachelor's Degree--in Fire Science	65
Bachelor's Degree -- Not in Fire Science	50
Associate's Degree -- in Fire Science	40
Associate's Degree -- Not in Fire Science	25
IDPH EMT – Paramedic	20
Fire Officer I (Provisional)	20
Fire Officer II (Provisional) (No stacking with FOI)	30

Only the highest number of points for any degree shall count toward ascertained merit.

Not to exceed a maximum of 70 points.

OSFM Certified Fire Instructor I (No stacking with FOI)	5
OSFM Certified Fire Instructor II (No stacking with FOII)	5
OSFM or NFA Certified Fire Investigator	10
OSFM Certified Fire Prevention Officer I	15
OSFM Certified Hazmat Tech A	5
OSFM Certified Hazmat Tech B	5
OSFM Certified Hazmat Incident Command	5
OSFM Certified Rescue Specialist - Vertical I	5
OSFM Certified Rescue Specialist - Vertical II	5
OSFM Certified Rescue Specialist – Confined Space Operations	5
OSFM Certified Rescue Specialist – Confined Space Technician	5
OSFM Certified Trench Operations	5
OSFM Certified Trench Technician	5
OSFM Certified Structural Collapse Operations	5
OSFM Certified Structural Collapse Technician	5
OSFM Certified Vehicle & Machinery Operations	5
OSFM Certified Vehicle & Machinery Technician	5
CPR Instructor	5
Acting Lieutenant*	15

* Only employees who qualify and participate in the Acting Lieutenant Program (as agreed to by the parties), consisting of working in an acting up capacity for at least two (2) consecutive years immediately prior to the applicable exam, shall receive these points. Employees shall be required to notify their Battalion Chief in writing of their intent to participate.

Not to exceed a maximum of 60 points.

BATTALION CHIEF ASCERTAINED MERIT	POINTS
Master's Degree	80
Bachelor's Degree -- in Fire Science	70
Bachelor's Degree -- Not in Fire Science	55
Associate's Degree -- in Fire Science	45
Associate's Degree -- Not in Fire Science	30
Fire Officer II/Advanced -- OSFM Certified	30
Fire Officer II/Advanced -- Provisional	20
Chief Fire Officer (Provisional) (No stacking with FOII)	40
OSFM Certified Fire Prevention Officer I	5
OSFM Certified Hazard Materials Incident Command	5
OSFM Certified Incident Safety Officer	5

Only the highest number of points for any degree shall count toward ascertained merit. The total number of points shall not exceed a maximum of 100 points.

Assessment Center. There shall be a practical assessment of pertinent skills for each rank. The practical assessment shall be conducted in compliance with the Promotion Act, except as amended by this Agreement. The parties shall request from the Office of the State Fire Marshal ("OFSM") a list of seven (7) certified assessors, in order to allow for a panel of three (3) assessors. The parties shall select assessors from the list provided by OFSM, in accordance with the procedures contained in 50 ILCS 742/50(h). In the event an assessor is not able to participate in the assessment center process for which he was selected, either party may request that additional names of certified assessors be provided (a list of three assessors for each such "vacancy" shall be requested from OFSM), and the selection method set forth hereinabove shall be utilized by the parties. The Union shall be notified and entitled to monitor any preliminary meeting between certified assessors and representatives of the Department which may occur prior to the administration of this component.

Each candidate shall be given his or her score on the Assessment Center portion of the exam, immediately upon completion of this component for all candidates.

Written Examination. The written examination shall be administered after all the other components have been administered. The subject matter of the written examination shall fairly test the capacity of the candidate to discharge the duties of the applicable rank (*i.e.*, either Lieutenant or Battalion Chief). The written examination shall be developed by Merit Employment Assessment Services, Inc. The examination shall be based only on the contents of written materials that the City has identified and made available to potential examinees at least one hundred twenty (120) days before the examination is administered. The Department will provide two (2) copies of all such written materials at each station and such written materials may not be removed from any fire station.

Section 14.6. Monitors. Up to two (2) impartial persons who are not members of the Elmhurst Fire Department may be selected by the Union to serve as monitors by giving written notice to the Fire Chief at least seven (7) days prior to the first day that monitors are to be used. If the Union designates a monitor/monitors, the City may also designate an equal number of monitors. Each party shall be responsible for all the costs and expenses of its designated monitor(s). Monitors are authorized to be present and observe the following components of the promotional process: written examination and Assessment Center. Monitors shall not interfere with the promotional process, but shall report the full details and facts concerning any observed or suspected violations of the provisions of this Article applicable to the component being observed to the Union and the Fire Chief. To be considered, such written report must be submitted within three (3) business days of the date of the observed or suspected violation.

Section 14.7. Scoring of Components and Posting of Preliminary Promotion List. The scores for each component of the promotional process shall be disclosed individually to each candidate and shall be posted anonymously with each candidate being given an assigned number on the bulletin board at each fire station after each component is completed and before the next component is administered. There shall be a minimum of three (3) calendar days between the posting of one component and the administration of the next component, with the exception that there shall be a minimum of fourteen (14) days between the posting of the Assessment Center points and the written exam. Once all candidates have completed all components of the promotional process, the scores for all components for each candidate shall be tallied and a preliminary promotion list shall be prepared by the City of Elmhurst Human Resource Director on which candidates shall be ranked in order from the highest to the lowest points scored on all

components of the promotional process. This preliminary promotion list shall then be posted on the bulletin board at each fire station.

Section 14.8. Veteran's Preference Points and Posting of Final Promotion List. A candidate on the preliminary promotion list who is eligible for veteran's preference points under applicable law may file a written application for the preference within ten (10) days after the initial posting of the preliminary promotion list. If requested, the veteran's preference points shall be added to the candidate's total score on the preliminary promotion list. The City of Elmhurst Human Resource Director shall then make adjustments to the rank order on the preliminary promotion list based on any veteran's preference points that have been awarded. The final promotion list shall then be posted on the bulletin board at each fire station listing in rank order from highest to lowest the scores of all candidates whose scores for all components of the promotional process and veteran's preference points, if any, are 70 or better.

Section 14.9. Order of Selection. When there is a vacancy (*i.e.*, a position becomes vacant due to resignation, discharge, promotion, death or the granting of a disability or retirement pension, or any other cause) or a newly created position in the rank of Lieutenant or Battalion Chief that the City Council has funded and authorized to be filled, the Fire Chief shall appoint the person with the highest ranking on the final promotional list, except that the Fire Chief shall have the right to pass over that person if the Fire Chief has reason to conclude that the highest ranking person has demonstrated substantial shortcomings in work performance or has engaged in misconduct affecting the person's ability to perform the duties of Lieutenant or Battalion Chief, whichever is applicable. If the ranking person is passed over, the Fire Chief shall document the reasons for the decision and shall so advise the person passed over. Unless

the reason for passing over the highest ranking person on the list at the time of the vacancy is not remediable, no such person shall be passed over more than once.

Any candidate may refuse a promotion once without losing his or her position on the final promotional list. Any candidate who refuses a promotion a second time shall be removed from the final promotion list, provided that such action shall not prejudice a person's opportunity to participate in future promotional processes.

Section 14.10. Duration of Final Promotion List. A final promotion list shall be effective for a period of three (3) years from the date of its posting or the date that the list is exhausted, whichever occurs earlier. The City shall schedule the Written Examination component of the Promotion Process for the successor promotional list before the expiration date of the then-current promotional list, unless a grievance filed pursuant to Section 14.11., Right of Review, of this Agreement results in a delay.

Section 14.11. Right of Review. Any individual participant in the promotional process who believes that an error has been made with respect to eligibility to take an examination, examination result, placement, position on a promotion list or veteran's preference may file a grievance at Step 2 in accordance with the provisions of the grievance and arbitration procedure set forth in Article V of this Agreement. Any such grievance must be filed within seven (7) calendar days of the date the final promotion list is posted. If an employee files a grievance over the Assessment Center points and/or Chief's points and it is appealed to arbitration, the arbitrator shall apply the arbitrary and capricious standard to determine whether or not the contract has been violated.

If a timely grievance is filed, the promotion shall be held in abeyance pending completion of the grievance process. During the pendency of any such grievance, the Fire Chief may assign

an employee on a temporary basis to serve as acting Lieutenant or acting Battalion Chief, whichever is applicable, for a period not to exceed one-hundred eighty (180) days. The parties agree to expedite the processing of any promotion grievance so that the arbitrator's award is issued within said one-hundred eighty (180) day period. The City acknowledges that it is entitled to make a single one-hundred eighty (180) day appointment per promotional exam process, if a delay should occur in the completion of the promotional exam process.

Section 14.12. Relationship of Article to the Fire Department Promotion Act. If there is any conflict or inconsistency between the Promotion Act and the provisions of this Article, the provisions of this Article shall be applicable and control. The provisions of the Fire Department Promotion Act shall be applicable and control with respect to any subject that is not covered by the provisions of this Article.

Section 14.13. Probationary Period and Return to Prior Rank. Promotions shall be probationary for a period of twelve (12) months. If an employee is relieved of his/her promotional rank during the probationary period, the employee shall return to the rank he/she held immediately prior to the probationary promotional appointment, and such action shall not be subject to the grievance procedure. During their probationary period no lieutenant will be assigned to serve as an acting Battalion Chief. Nothing in this section is intended to limit or restrict the City's right to terminate any such employee pursuant to the rules and regulations of the Elmhurst Board of Fire and Police Commissioners.

ARTICLE XV

MISCELLANEOUS

Section 15.1. Fitness Examinations. If there is any question concerning an employee's fitness for duty or fitness to return to duty following a layoff or leave of absence, the City may require, at its expense, that the employee be examined by a medical professional selected by the City who is qualified and licensed in the appropriate specialty and/or subspecialty.

All such examinations/tests required by the City shall be at the City's expense; provided that any such examinations/tests shall be in addition to any requirement that an employee provide at his own expense a statement from his/her doctor upon returning from sick leave or disability leave.

Where the City directs an employee to be examined or following an annual medical examination where an employee has been found unfit for duty, the employee shall have the option of being examined at his/her own expense by a medical professional of the employee's own choosing who is qualified and licensed in the appropriate specialty and/or subspecialty. If there is a difference of opinion between the City's medical professional and the employee's medical professional and the City does not accept the opinion of the employee's medical professional, the employee shall be directed to obtain the opinion of a third medical professional of equivalent qualifications who shall be jointly selected by the City's medical professional and the employee's medical professional. In such event, the decision of the third medical professional shall determine the employee's fitness for duty and such determination shall not be subject to the grievance and arbitration procedure specified in this Agreement.

If it is determined that an employee is not fit for duty based on the foregoing, the City may place the employee on sick leave (or unpaid medical leave if the employee does not have

any unused sick leave days), or take other appropriate action. In the event the third medical professional determines that the employee is fit for duty, the employee shall be reimbursed for all sick time, paid benefit days, and/or unpaid days taken, commencing on the date that the employee's medical professional rendered an opinion that the employee was fit for duty.

Nothing herein shall be construed to alter or have any affect on either the statutory rights or the statutory requirements concerning disability pensions.

Section 15.2. Annual Medical Examinations. The City will provide at its expense an annual medical exam, which will include mandatory and voluntary portions, administered by licensed medical professional(s) to employees for the purpose of determining the employee's ability to perform the essential duties of a firefighter/lieutenant.

Mandatory Tests

Blood pressure analysis
Cardiac risk profile
Electrocardiogram
Physical examination
Pulmonary function testing
Complete blood count
Vision screening (near and far)
Hearing screening
10 panel drug screening
Cardiac stress test*
Chest x-ray (once every three years)*
Comprehensive metabolic (diabetes, liver, kidney)

Voluntary Tests

Urinalysis
Olfactory screening
Occult blood stool
Prostatic specific antigen
Testicular examination
Rectal examination
Heavy metal screening (one time test)
Tetanus/diphtheria screening
Chicken pox (VZV) for non exposed (one time test)

Hepatitis A (vaccine - series one time)
Hepatitis B (vaccine - series one time)
Hepatitis C antibody test
Body composition
PAP/Mammogram

* as recommended by examining physician

Voluntary tests opted for by individual firefighters or Lieutenants shall be designated 30 days prior to testing for administrative purposes. If the current designated hospital and/or physician is altered or the medical tests need to be modified, the new provider and tests will be selected jointly by the labor/management committee. Where the medical examinations are required and scheduled outside the employee's normal work time, the employee shall be paid at a rate of 1 ½ the hourly rate for time actually spent. The City will receive a fit-for-duty report from the licensed medical professional(s) administering the tests. The providers administering the tests will hold all detailed medical records and reports of employees, with the employee receiving a copy of the complete examination report.

Section 15.3. Precedence of Agreement. If there is any conflict between the provisions of this Agreement and the provisions of any State statute, administrative regulation, City ordinance, or City personnel policy relating to wages, hours and conditions of employment, the provisions of this Agreement, for its duration, shall take precedence.

Section 15.4. Impasse Resolution. The resolution of any bargaining impasse shall be in accordance with the provisions of Section 14 of the Illinois Public Labor Relations Act, as amended.

Section 15.5. Uniforms. In accordance with its existing quartermaster system, the City shall continue to provide employees with all items of protective clothing, uniforms, and related equipment which were provided by the City during the 1992-93 fiscal year. The type, style,

and/or color of clothing, uniforms and equipment shall be determined by the Fire Chief. The City shall replace all currently or prospectively required protective clothing, uniforms, and related equipment items (excluding shoes and socks) through vendors selected by the City as they become worn out or damaged, provided that the City may require employees to turn in worn out/damaged clothing, uniform and equipment items to his/her shift Battalion Chief and receive approval from his/her shift Battalion Chief to replace the item or items in question. It is understood that equipment items may be appropriately repaired at the City's expense rather than replaced if it is reasonable to repair the item. Employees who do not turn in worn out/damaged clothing, uniform and equipment items when requested to do so shall be required to pay for the replacement; provided that if an employee is able to establish to the reasonable satisfaction of his/her shift Battalion Chief that a uniform or equipment item has been lost or stolen due to circumstances beyond the employee's reasonable control, the employee shall not be required to pay for the replacement. The clothing allowance shall be \$300 per year per individual.

Section 15.6. Educational Assistance. Employees covered by this Agreement are eligible to receive reimbursement for tuition and related costs such as books, lab fees, accreditation fees and transfer fees, in an amount not to exceed \$2,500 for an undergraduate degree or Fire Science related technical class and \$2,500 per year for a graduate degree.

Reimbursement is subject to the following conditions:

1. Written approval of both the Fire Chief and the City Manager must be obtained prior to enrollment.
2. To be considered for approval, courses or subjects selected at schools or colleges shall be job related, and shall be subjected to approval of the Fire Chief. Job related courses or subjects may include materials related to occupational certification (FO1, etc.), a formal degree (AA, BA, etc.), or a certificate issued by an accredited institution providing job related training (FEMA, etc.).

3. Hours and times of attendance at selected schools and colleges shall be mutually agreed upon. Where written approval of both the Fire Chief and City Manager has been obtained, release from duty to attend class will be allowed as follows:
 - a. Each Firefighter/Lieutenant will be allotted up to 48 hours per calendar year, which can be taken in no less than ½ hour increments with minimum of 2 hours, to be released from duty to attend approved classes, not to include formal degree work (AA, BA, etc.).
 - b. Shift trades will normally be approved to facilitate class attendance in excess of the allotted 48 hours.
 - c. Probationary Firefighters will be approved to attend only the following required classes:
 - (1) Hazardous Material Awareness
 - (2) Hazardous Materials Operations
 - (3) Fire Apparatus Engineer (FAE)
 - d. Educational opportunities will be offered to all personnel with selection determined by seniority, prequalifications and, when necessary, the immediate needs of the Fire Department.
4. Before reimbursement is made for college level courses, the employee must submit evidence of satisfactory completion of the course.
5. For those employees with five or less years of full time service with the City who terminate their employment with the City to accept a firefighter or related position elsewhere, 50 percent of all voluntary educational assistance paid to cover tuition/books within the last 12 months of the employee's tenure with the City, shall be reimbursed to the City.

Employees who are requested by the Fire Chief, in the interest of the Fire Department, to attend training, educational classes, or fire department business, and who agree to attend, shall be released from their regular duties for the necessary time during their 24-hour shift to attend without loss of pay. The cost for such classes shall be reimbursed in accordance with the provisions of this section.

Section 15.7. Required Training. Employees who are required to attend training or education classes at the direction of the Fire Chief shall be compensated for the time required to

attend such classes at the applicable rate of pay. Where such training is for a period of five (5) calendar days or more, the employee may be temporarily assigned to work on the basis of a 40 hour work week consisting of five (5) eight (8) hour work days (the 40 hour work week shall be defined as Sunday 0800 through the following Sunday 0800), at no loss of pay. Where an employee is participating off premises in required training during a regularly scheduled 24-hour shift, the employee shall return to duty as soon as possible after the conclusion of the training. The tuition and/or fees and other approved costs shall be paid by the City and shall not be charged against the educational assistance allowances provided in Section 15.6 above.

Section 15.8. Secondary Employment. The parties agree that the jobs held by the employees covered by this Agreement are their primary jobs and that if there is any conflict between their primary jobs with the City and any secondary employment, the conflict shall be resolved in favor of the primary job. Accordingly, with respect to all secondary employment (including self-employment), including any changes in the nature and/or extent of such employment, employees shall notify the Fire Chief. The notification shall include the secondary employer's name, address, and phone number.

Section 15.9. Light Duty. The City may require an employee who is on Worker's Compensation leave (as opposed to disability pension) to return to work in an available light duty assignment that the employee is qualified to perform, provided the City's physician has determined that the employee is physically able to perform the light duty assignment in question without significant risk that such return to work will aggravate any pre-existing injury and that there is a reasonable expectation that the employee will be able to assume full duties and responsibilities within six months.

Unless the City and employee consent to a different work schedule, the hours of work for an employee with a light duty assignment for an on-duty injury or illness shall be the employee's regular shift hours and days. Kelly Days or vacation days previously scheduled to be taken during such light duty assignment shall not be rescheduled, but shall be taken as originally scheduled.

An employee who is on paid sick leave may request, but shall not be required, to return to an available light duty assignment that the employee is qualified to perform, provided the City's physician has determined that the employee is physically able to perform the light duty assignment in question without significant risk that such return to work will aggravate any pre-existing injury and that there is a reasonable expectation that the employee will be able to assume full duties and responsibilities within six months.

The provisions of Article XV, Section 15.1 (Fitness Examinations), shall be applicable if the employee disputes the determination of the City's physician.

Notwithstanding the foregoing, in instances where an employee is assigned light duty for an off-duty injury, unless the City assigns and the employee consents to a different work schedule, the hours of work for an employee with a light duty assignment shall be not more than eight (8) consecutive hours excluding an unpaid lunch period between 7:00 a.m. and 7:00 p.m., Monday through Friday (unless the physician specifies a shorter work week). If it is not possible for an employee on light duty to schedule a doctor's appointment or a physical therapy session outside his/her scheduled hours of work, unless other arrangements are mutually agreed to, such employee may schedule same during his/her scheduled work hours, either at the start of or at the end of the employee's shift, as long as at least 24 hours advance notice is given to the Fire Chief or his designee.

If an employee returns to work in a light duty assignment and the employee is unable to assume full duties and responsibilities within six months thereafter, the City retains the right to place the employee on disability leave, Worker's Compensation leave, sick leave, or special unpaid leave, whichever is applicable.

Nothing herein shall be construed to require the City to create light duty assignments for an employee. Employees will only be assigned to light duty assignments when the City determines that the need exists and only as long as such need exists.

Nothing in this Section shall affect the statutory rights of the employee or Pension Board in dealing with an employee on a disability pension.

Section 15.10. Safety Committee. A Safety Committee composed of two (2) persons designated by the Fire Chief and two (2) bargaining unit employees designated by the Union President shall meet at such times as a majority of the Committee may deem necessary, but in no event less than four times per year, for the purpose of discussing and investigating matters relating to safety in the Elmhurst Fire Department. Such a meeting should be requested at least seven (7) days in advance by either party by placing in writing a request to the other for a Safety Committee meeting and expressly providing an agenda for the meeting. The party not making the request for the meeting may request in writing within three (3) days thereafter additional items for the agenda.

The Safety Committee, or the two members appointed by either party, may make written advisory recommendations concerning safety issues to the Fire Chief. The Fire Chief or his designee shall respond in writing to any such recommendations. Such response shall include what action, if any, the Fire Chief intends to take in response to the recommendations.

If any Safety Committee meeting is scheduled during the working hours of any employee who will be attending the meeting, the employee shall be released from duty to attend the meeting without loss of pay.

Records shall be kept of all job related accidents, injuries and illnesses. Copies of all such records which the City is required to maintain by federal or state law shall be made available to Safety Committee members unless privacy or confidentiality requirements preclude such release.

Section 15.11. No Subcontracting. The City shall not subcontract any work performed by employees covered by this Agreement, except if there is a violation of Article VI, Section 6.1 of this Agreement. This provision shall not be applicable to any mutual aid agreements that the City has or may have with other fire departments.

Section 15.12. Compliance with Specific Statutes. The City agrees to comply with the applicable Illinois statutes concerning on-the-job injuries, worker's compensation, pensions, and access to personnel records as they relate to bargaining unit employees, but said statutes shall not be incorporated herein by reference and the interpretation and application of said statutes shall not be subject to the provisions of Article V (Grievance Procedure).

During the term of this Agreement as specified in Article XIX, the City will not (1) adopt any ordinances or other municipal legislation which would modify or alter the benefits which employees covered by this Agreement are eligible to receive under the state's worker's compensation statute, or (2) adopt any residency requirements that are applicable to employees covered by this Agreement.

Section 15.13. Drug and Alcohol Policy. The Drug and Alcohol Policy for employees covered by this Agreement is attached as Appendix B.

Section 15.14. EMT-B License. Employees shall be required to maintain an EMT-B license as a condition of employment, except for any person who was employed as a bargaining unit member on May 1, 2010 and who did not hold such license on that date. The City shall be responsible for offering, at its cost, required training, and shall pay for the re-license fee, if one is initiated. The City shall also be responsible for the maintenance and submission of all records for the re-licensure process.

Section 15.15. Required Illinois Driver's License. Employees shall be required to maintain an Illinois Class B driver's license, as a condition of employment.

ARTICLE XVI

LABOR-MANAGEMENT MEETINGS

At the request of either party, the President of the Union and the Fire Chief or their designees shall meet at least semi-annually to discuss matters of mutual concern that do not involve negotiations. The President of the Union may invite other Union representatives (not to exceed two) to attend such meetings. The Fire Chief may invite other City representatives (not to exceed two) to attend such meetings. The party requesting the meeting shall submit a written agenda of the items it wishes to discuss at least three days prior to the date of the meeting. This Article shall not be applicable to any matter that is being processed pursuant to the grievance procedure set forth in this Agreement.

ARTICLE XVII

VEBA PLAN

The City shall establish a VEBA Plan by April 30, 2019, provided that the City and Union mutually agree to the terms of such plan by such date, unless the parties mutually agree to extend such time frame.

ARTICLE XVIII

ENTIRE AGREEMENT

This Agreement, upon ratification, supersedes all prior practices and agreements, whether written or oral, unless expressly stated to the contrary herein, and constitutes the complete and entire agreement between the parties, and concludes collective bargaining for its term. The parties acknowledge that during the negotiations that resulted in this Agreement, each had the unlimited right to and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining and that the understandings and agreements arrived at by the parties after exercise of that right and opportunity are set forth in this Agreement. Except as may be stated in this Agreement, each party voluntarily and unqualifiedly waives the right, and each agrees that the other shall not be obligated, to bargain collectively with respect to any subject or matter referred to or covered in this Agreement, or any subject or matter not specifically referred to or covered in this Agreement, even though such subjects or matters may not have been within the knowledge or contemplation of either or both of the parties at the time they negotiated and signed this Agreement. Notwithstanding the above, the Union specifically does not waive and reserves its right to engage in impacts/effects bargaining.

ARTICLE XIX

SAVINGS CLAUSE

In the event any Article, section or portion of this Agreement should be held invalid and unenforceable by any board, agency, court of competent jurisdiction or by reason of any existing or subsequently enacted federal or state legislation, such decision or legislation shall apply only to the specific Article, section or portion thereof specifically specified in the board, agency or court decision or subsequent litigation, and the remaining parts or portions of this Agreement shall remain in full force and effect. In such event, the parties shall, upon the request of either party, meet promptly to commence good faith bargaining to endeavor to agree upon replacement language for the invalidated Article, section or portion of this Agreement.

ARTICLE XX

DURATION AND TERM OF AGREEMENT

Unless otherwise specifically provided herein, this Agreement shall be effective as of the day after the contract is executed by both parties and shall remain in full force and effect until 11:59 p.m. on the 31st day of December, 2022. It shall be automatically renewed from year to year thereafter unless either party shall notify the other in writing at least ninety (90) days prior to the anniversary date that it desires to modify this Agreement. In the event that such notice is given, negotiations shall begin no later than sixty (60) days prior to the anniversary date.

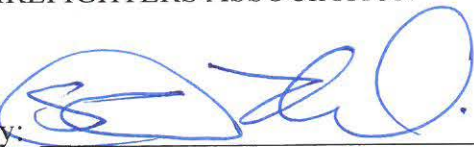
Notwithstanding any provision of this Article or Agreement to the contrary, this Agreement shall remain in full force and effect after the expiration date and until a new agreement is reached unless either party gives at least ten (10) days written notice to the other party of its desire to terminate this Agreement, provided such termination date shall not be before the anniversary date set forth in the preceding paragraph.

Executed this 5 day of October, 2020.

CITY OF ELMHURST

By: 

ELMHURST PROFESSIONAL
FIREFIGHTERS ASSOCIATION

By: 

APPENDIX A

FIRE DEPARTMENT PROMOTION ACT

LOCAL GOVERNMENT (50 ILCS 742/) Fire Department Promotion Act.

(50 ILCS 742/1)

Sec. 1. Short title. This Act may be cited as the Fire Department Promotion Act.

(Source: P.A. 93-411, eff. 8-4-03.)

(50 ILCS 742/5)

Sec. 5. Definitions. In this Act:

"Affected department" or "department" means a full-time municipal fire department that is subject to a collective bargaining agreement or the fire department operated by a full-time fire protection district. The terms do not include fire departments operated by the State, a university, or a municipality with a population over 1,000,000 or any unit of local government other than a municipality or fire protection district. The terms also do not include a combined department that was providing both police and firefighting services on January 1, 2002.

"Appointing authority" means the Board of Fire and Police Commissioners, Board of Fire Commissioners, Civil Service Commissioners, Superintendent or Department Head, Fire Protection District Board of Trustees, or other entity having the authority to administer and grant promotions in an affected department.

"Promotion" means any appointment or advancement to a rank within the affected department (1) for which an examination was required before January 1, 2002; (2) that is included within a bargaining unit; or (3) that is the next rank immediately above the highest rank included within a bargaining unit, provided such rank is not the only rank between the Fire Chief and the highest rank included within the bargaining unit, or is a rank otherwise excepted under item (i), (ii), (iii), (iv), or (v) of this definition. "Promotion" does not include appointments (i) that are for fewer than 180 days; (ii) to the positions of Superintendent, Chief, or other chief executive officer; (iii) to an exclusively administrative or executive rank for which an examination is not required; (iv) to a rank that was exempted by a home rule municipality prior to January 1, 2002, provided that after the effective date of this Act no home rule municipality may exempt any future or existing ranks from the provisions of this Act; or (v) to an administrative rank immediately below the Superintendent, Chief, or other chief executive officer of an affected department, provided such rank shall not be held by more than 2 persons and there is a promoted rank immediately below it. Notwithstanding the exceptions to the definition of "promotion" set forth in items (i), (ii), (iii), (iv), and (v) of this definition, promotions shall include any

appointments to ranks covered by the terms of a collective bargaining agreement in effect on the effective date of this Act.

"Preliminary promotion list" means the rank order of eligible candidates established in accordance with subsection (b) of Section 20 prior to applicable veteran's preference points. A person on the preliminary promotion list who is eligible for veteran's preference under the laws and agreements applicable to the appointing authority may file a written application for that preference within 10 days after the initial posting of the preliminary promotion list. The preference shall be calculated in accordance with Section 55 and applied as an addition to the person's total point score on the examination. The appointing authority shall make adjustments to the preliminary promotion list based on any veteran's preference claimed and the final adjusted promotion list shall then be posted by the appointing authority.

"Rank" means any position within the chain of command of a fire department to which employees are regularly assigned to perform duties related to providing fire suppression, fire prevention, or emergency services.

"Final adjusted promotion list" means the promotion list for the position that is in effect on the date the position is created or the vacancy occurs. If there is no final adjusted promotion list in effect for that position on that date, or if all persons on the current final adjusted promotion list for that position refuse the promotion, the affected department shall not make a permanent promotion until a new final adjusted promotion list has been prepared in accordance with this Act, but may make a temporary appointment to fill the vacancy. Temporary appointments shall not exceed 180 days.

Each component of the promotional test shall be scored on a scale of 100 points. The component scores shall then be reduced by the weighting factor assigned to the component on the test and the scores of all components shall be added to produce a total score based on a scale of 100 points.

(Source: P.A. 93-411, eff. 8-4-03.)

(50 ILCS 742/10)

Sec. 10. Applicability.

(a) This Act shall apply to all positions in an affected department, except those specifically excluded in items (i), (ii), (iii), (iv), and (v) of the definition of "promotion" in Section 5 unless such positions are covered by a collective bargaining agreement in force on the effective date of this Act. Existing promotion lists shall continue to be valid until their expiration dates, or up to a maximum of 3 years after the effective date of this Act.

(b) Notwithstanding any statute, ordinance, rule, or other laws to the contrary, all promotions in an affected department to which this Act applies shall be administered in the manner provided for in this Act. Provisions of the Illinois Municipal Code, the Fire Protection District Act, municipal ordinances, or rules adopted pursuant to such authority and other laws relating to promotions in

affected departments shall continue to apply to the extent they are compatible with this Act, but in the event of conflict between this Act and any other law, this Act shall control.

(c) A home rule or non-home rule municipality may not administer its fire department promotion process in a manner that is inconsistent with this Act. This Section is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of the powers and functions exercised by the State.

(d) This Act is intended to serve as a minimum standard and shall be construed to authorize and not to limit:

(1) An appointing authority from establishing

different or supplemental promotional criteria or components, provided that the criteria are job-related and applied uniformly.

(2) The right of an exclusive bargaining representative to require an employer to negotiate clauses within a collective bargaining agreement relating to conditions, criteria, or procedures for the promotion of employees to ranks, as defined in Section 5, covered by this Act.

(3) The negotiation by an employer and an exclusive bargaining representative of provisions within a collective bargaining agreement to achieve affirmative action objectives, provided that such clauses are consistent with applicable law.

(e) Local authorities and exclusive bargaining agents affected by this Act may agree to waive one or more of its provisions and bargain on the contents of those provisions, provided that any such waivers shall be considered permissive subjects of bargaining.

(Source: P.A. 93-411, eff. 8-4-03; 94-809, eff. 5-26-06.)

(50 ILCS 742/15)

Sec. 15. Promotion process.

(a) For the purpose of granting promotion to any rank to which this Act applies, the appointing authority shall from time to time, as necessary, administer a promotion process in accordance with this Act.

(b) Eligibility requirements to participate in the promotional process may include a minimum requirement as to the length of employment, education, training, and certification in subjects and skills related to fire fighting. After the effective date of this Act, any such eligibility requirements shall be published at least one year prior to the date of the beginning of the promotional process and all members of the affected department shall be given an equal opportunity to meet those eligibility requirements.

(c) All aspects of the promotion process shall be equally accessible to all eligible employees of the department. Every component of the testing and evaluation procedures shall be published to all eligible candidates when the announcement of promotional

testing is made. The scores for each component of the testing and evaluation procedures shall be disclosed to each candidate as soon as practicable after the component is completed.

(d) The appointing authority shall provide a separate promotional examination for each rank that is filled by promotion. All examinations for promotion shall be competitive among the members of the next lower rank who meet the established eligibility requirements and desire to submit themselves to examination. The appointing authority may employ consultants to design and administer promotion examinations or may adopt any job-related examinations or study materials that may become available, so long as they comply with the requirements of this Act.

(Source: P.A. 93-411, eff. 8-4-03.)

(50 ILCS 742/20)

Sec. 20. Promotion lists.

(a) For the purpose of granting a promotion to any rank to which this Act applies, the appointing authority shall from time to time, as necessary, prepare a preliminary promotion list in accordance with this Act. The preliminary promotion list shall be distributed, posted, or otherwise made conveniently available by the appointing authority to all members of the department.

(b) A person's position on the preliminary promotion list shall be determined by a combination of factors which may include any of the following: (i) the person's score on the written examination for that rank, determined in accordance with Section 35; (ii) the person's seniority within the department, determined in accordance with Section 40; (iii) the person's ascertained merit, determined in accordance with Section 45; and (iv) the person's score on the subjective evaluation, determined in accordance with Section 50. Candidates shall be ranked on the list in rank order based on the highest to the lowest total points scored on all of the components of the test. Promotional components, as defined herein, shall be determined and administered in accordance with the referenced Section, unless otherwise modified or agreed to as provided by paragraph (1) or (2) of subsection (d) of Section 10. The use of physical criteria, including but not limited to fitness testing, agility testing, and medical evaluations, is specifically barred from the promotion process.

(c) A person on the preliminary promotion list who is eligible for a veteran's preference under the laws and agreements applicable to the department may file a written application for that preference within 10 days after the initial posting of the preliminary promotion list. The preference shall be calculated as provided under Section 55 and added to the total score achieved by the candidate on the test. The appointing authority shall then make adjustments to the rank order of the preliminary promotion list based on any veteran's preferences awarded. The final adjusted promotion list shall then be distributed, posted, or otherwise made conveniently available by the appointing authority to all members of the department.

(d) Whenever a promotional rank is created or becomes vacant due to resignation, discharge, promotion, death, or the granting of a disability or retirement pension, or any other cause, the appointing authority shall appoint to that position the person with the highest ranking on the final promotion list for that rank, except that the appointing authority shall have the right to pass over that person and appoint the next highest ranked person on the list if the appointing authority has reason to conclude that the highest ranking person has demonstrated substantial shortcomings in work performance or has engaged in misconduct affecting the person's ability to perform the duties of the promoted rank since the posting of the promotion list. If the highest ranking person is passed over, the appointing authority shall document its reasons for its decision to select the next highest ranking person on the list. Unless the reasons for passing over the highest ranking person are not remediable, no person who is the highest ranking person on the list at the time of the vacancy shall be passed over more than once. Any dispute as to the selection of the first or second highest-ranking person shall be subject to resolution in accordance with any grievance procedure in effect covering the employee.

A vacancy shall be deemed to occur in a position on the date upon which the position is vacated, and on that same date, a vacancy shall occur in all ranks inferior to that rank, provided that the position or positions continue to be funded and authorized by the corporate authorities. If a vacated position is not filled due to a lack of funding or authorization and is subsequently reinstated, the final promotion list shall be continued in effect until all positions vacated have been filled or for a period up to 5 years beginning from the date on which the position was vacated. In such event, the candidate or candidates who would have otherwise been promoted when the vacancy originally occurred shall be promoted.

Any candidate may refuse a promotion once without losing his or her position on the final adjusted promotion list. Any candidate who refuses promotion a second time shall be removed from the final adjusted promotion list, provided that such action shall not prejudice a person's opportunities to participate in future promotion examinations.

(e) A final adjusted promotion list shall remain valid and unaltered for a period of not less than 2 nor more than 3 years after the date of the initial posting. Integrated lists are prohibited and when a list expires it shall be void, except as provided in subsection (d) of this Section. If a promotion list is not in effect, a successor list shall be prepared and distributed within 180 days after a vacancy, as defined in subsection (d) of this Section.

(f) This Section 20 does not apply to the initial hiring list.
(Source: P.A. 95-956, eff. 8-29-08.)

(50 ILCS 742/25)
Sec. 25. Monitoring.

(a) All aspects of the promotion process, including without limitation the administration, scoring, and posting of scores for the written examination and subjective evaluation and the determination and posting of seniority and ascertained merit scores, shall be subject to monitoring and review in accordance with this Section and Sections 30 and 50.

(b) Two impartial persons who are not members of the affected department shall be selected to act as observers by the exclusive bargaining agent. The appointing authorities may also select 2 additional impartial observers.

(c) The observers monitoring the promotion process are authorized to be present and observe when any component of the test is administered or scored. Except as otherwise agreed to in a collective bargaining agreement, observers may not interfere with the promotion process, but shall promptly report any observed or suspected violation of the requirements of this Act or an applicable collective bargaining agreement to the appointing authority and all other affected parties.

(d) The provisions of this Section do not apply to the extent that they are inconsistent with provisions otherwise agreed to in a collective bargaining agreement.

(Source: P.A. 93-411, eff. 8-4-03.)

(50 ILCS 742/30)

Sec. 30. Promotion examination components. Promotion examinations that include components consisting of written examinations, seniority points, ascertained merit, or subjective evaluations shall be administered as provided in Sections 35, 40, 45 and 50. The weight, if any, that is given to any component included in a test may be set at the discretion of the appointing authority provided that such weight shall be subject to modification by the terms of any collective bargaining agreement in effect on the effective date of this Act or thereafter by negotiations between the employer and an exclusive bargaining representative. If the appointing authority establishes a minimum passing score, such score shall be announced prior to the date of the promotion process and it must be an aggregate of all components of the testing process. All candidates shall be allowed to participate in all components of the testing process irrespective of their score on any one component. The provisions of this Section do not apply to the extent that they are inconsistent with provisions otherwise agreed to in a collective bargaining agreement.

(Source: P.A. 93-411, eff. 8-4-03.)

(50 ILCS 742/35)

Sec. 35. Written examinations.

(a) The appointing authority may not condition eligibility to take the written examination on the candidate's score on any of the previous components of the examination. The written examination for a particular rank shall consist of matters relating to the duties regularly performed by persons holding that rank within the department. The examination shall be based only on the contents of

written materials that the appointing authority has identified and made readily available to potential examinees at least 90 days before the examination is administered. The test questions and material must be pertinent to the particular rank for which the examination is being given. The written examination shall be administered after the determination and posting of the seniority list, ascertained merit points, and subjective evaluation scores. The written examination shall be administered, the test materials opened, and the results scored and tabulated.

(b) Written examinations shall be graded at the examination site on the day of the examination immediately upon completion of the test in front of the observers if such observers are appointed under Section 25, or if the tests are graded offsite by a bona fide testing agency, the observers shall witness the sealing and the shipping of the tests for grading and the subsequent opening of the scores upon the return from the testing agency. Every examinee shall have the right (i) to obtain his or her score on the examination on the day of the examination or upon the day of its return from the testing agency (or the appointing authority shall require the testing agency to mail the individual scores to any address submitted by the candidates on the day of the examination); and (ii) to review the answers to the examination that the examiners consider correct. The appointing authority may hold a review session after the examination for the purpose of gathering feedback on the examination from the candidates. The review sessions shall be at no cost to the candidates.

(c) Sample written examinations may be examined by the appointing authority and members of the department, but no person in the department or the appointing authority (including the Chief, Civil Service Commissioners, Board of Fire and Police Commissioners, Board of Fire Commissioners, or Fire Protection District Board of Trustees and other appointed or elected officials) may see or examine the specific questions on the actual written examination before the examination is administered. If a sample examination is used, actual test questions shall not be included. It is a violation of this Act for any member of the department or the appointing authority to obtain or divulge foreknowledge of the contents of the written examination before it is administered.

(d) Each department shall maintain reading and study materials for its current written examination and the reading list for the last 2 written examinations or for a period of 5 years, whichever is less, for each rank and shall make these materials available and accessible at each duty station.

(e) The provisions of this Section do not apply to the extent that they are in conflict with provisions otherwise agreed to in a collective bargaining agreement.

(Source: P.A. 97-352, eff. 8-12-11.)

(50 ILCS 742/40)

Sec. 40. Seniority points.

(a) Seniority points shall be based only upon service with the affected department and shall be calculated as of the date of the written examination. The weight of this component and its computation shall be determined by the appointing authority or through a collective bargaining agreement.

(b) A seniority list shall be posted before the written examination is given and before the preliminary promotion list is compiled. The seniority list shall include the seniority date, any breaks in service, the total number of eligible years, and the number of seniority points.

(Source: P.A. 93-411, eff. 8-4-03.)

(50 ILCS 742/45)

Sec. 45. Ascertained merit.

(a) The promotion test may include points for ascertained merit. Ascertained merit points may be awarded for education, training, and certification in subjects and skills related to the fire service. The basis for granting ascertained merit points, after the effective date of this Act, shall be published at least one year prior to the date ascertained merit points are awarded and all persons eligible to compete for promotion shall be given an equal opportunity to obtain ascertained merit points unless otherwise agreed to in a collective bargaining agreement.

(b) Total points awarded for ascertained merit shall be posted before the written examination is administered and before the promotion list is compiled.

(Source: P.A. 93-411, eff. 8-4-03.)

(50 ILCS 742/50)

Sec. 50. Subjective evaluation.

(a) A promotion test may include subjective evaluation components. Subjective evaluations may include an oral interview, tactical evaluation, performance evaluation, or other component based on subjective evaluation of the examinee. The methods used for subjective evaluations may include using any employee assessment centers, evaluation systems, chief's points, or other methods.

(b) Any subjective component shall be identified to all candidates prior to its application, be job-related, and be applied uniformly to all candidates. Every examinee shall have the right to documentation of his or her score on the subjective component upon the completion of the subjective examination component or its application. A designated representative of the contracting union party shall be notified and be entitled to be present to monitor any preliminary meeting between certified assessors or representatives of a testing agency and representatives of the appointing authority held prior to the administration of the test to candidates for promotion.

(c) Where chief's points or other subjective methods are employed that are not amenable to monitoring, monitors shall not be required, but any disputes as to the results of such methods shall be subject to

resolution in accordance with any collectively bargained grievance procedure in effect at the time of the test.

(d) Where performance evaluations are used as a basis for promotions, they shall be given annually and made readily available to each candidate for review and they shall include any disagreement or documentation the employee provides to refute or contest the evaluation. These annual evaluations are not subject to grievance procedures, unless used for points in the promotion process.

(e) Total points awarded for subjective components shall be posted before the written examination is administered and before the promotion list is compiled.

(f) Persons selected to grade candidates for promotion during an assessment center process shall be impartial professionals who have undergone training to be certified assessors. The training and certification requirements shall, at a minimum, provide that, to obtain and maintain certification, assessors shall complete a course of basic training, subscribe to a code of ethical conduct, complete continuing education, and satisfy minimum activity levels.

(g) The standards for certification shall be established by a Joint Labor and Management Committee (JLMC) composed of 4 members: 2 designated by a statewide association whose membership is predominantly fire chiefs representing management interests of the Illinois fire service, and 2 designated by a statewide labor organization that is a representative of sworn or commissioned firefighters in Illinois. Members may serve terms of one year subject to reappointment.

For the purposes of this Section, the term "statewide labor organization" has the meaning ascribed to it in Section 10-3-12 of the Illinois Municipal Code.

In developing certification standards the JLMC may seek the advice and counsel of professionals and experts and may appoint an advisory committee.

The JLMC may charge reasonable fees that are related to the costs of administering authorized programs and conducting classes, including without limitation the costs of monitoring programs and classes, to the following: (i) applicants for certifications or recertifications, (ii) recipients of certifications or recertifications, and (iii) individuals and entities approved by the JLMC to conduct programs or classes.

The JLMC's initial certification standards shall be submitted to the Office of the State Fire Marshal by January 1, 2009. The JLMC may provisionally certify persons who have prior experience as assessors on promotional examinations in the fire service. Effective January 1, 2010 only those persons who meet the certification standards developed by the JLMC and submitted to the Office of the State Fire Marshal may be selected to grade candidates on a subjective component of a promotional examination conducted under the authority of this Act; provided this requirement shall be waived for persons employed or appointed by the jurisdiction administering the examination.

The JLMC shall annually:

(1) issue public notice offering persons who are interested in qualifying as certified assessors the opportunity to enroll in training; and

(2) submit to the Office of the State Fire Marshal an amended list of persons who remain certified, are newly certified, or who are no longer certified.

(h) The Office of the State Fire Marshal shall support the program by adopting certification standards based on those submitted by the JLMC and by establishing a roster of certified assessors composed of persons certified by the JLMC.

If the parties have not agreed to contract with a particular testing company to provide certified assessors, either party may request the Office to provide the names of certified assessors. Within 7 days after receiving a request from either party for a list of certified assessors, the Office shall select at random from the roster of certified assessors a panel numbering not less than 2 times the number of assessors required. The parties shall augment the number by a factor of 50% by designating assessors who may serve as alternates to the primary assessors.

The parties shall select assessors from the list or lists provided by the Office or from the panel obtained by the testing company as provided above. Within 7 days following the receipt of the list, the parties shall notify the Office of the assessors they have selected. Unless the parties agree on an alternate selection procedure, they shall alternatively strike names from the list provided by the Office until only the number of required assessors remain. A coin toss shall determine which party strikes the first name. If the parties fail to notify the Office in a timely manner of their selection of assessors, the Office shall appoint the assessors required from the roster of certified assessors. In the event an assessor is not able to participate in the assessment center process for which he was selected, either of the parties involved in the promotion process may request that additional names of certified assessors be provided by the Office.

(Source: P.A. 97-174, eff. 7-22-11.)

(50 ILCS 742/55)

Sec. 55. Veterans' preference. A person on a preliminary promotion list who is eligible for veteran's preference under any law or agreement applicable to an affected department may file a written application for that preference within 10 days after the initial posting of the preliminary promotion list. The veteran's preference shall be calculated as provided in the applicable law and added to the applicant's total score on the preliminary promotion list. Any person who has received a promotion from a promotion list on which his or her position was adjusted for veteran's preference, under this Act or any other law, shall not be eligible for any subsequent veteran's preference under this Act.

(Source: P.A. 93-411, eff. 8-4-03.)

(50 ILCS 742/60)

Sec. 60. Right to review. Any affected person or party who believes that an error has been made with respect to eligibility to take an examination, examination result, placement or position on a promotion list, or veteran's preference shall be entitled to a review of the matter by the appointing authority or as otherwise provided by law.

(Source: P.A. 93-411, eff. 8-4-03.)

(50 ILCS 742/65)

Sec. 65. Violations.

(a) A person who knowingly divulges or receives test questions or answers before a written examination, or otherwise knowingly violates or subverts any requirement of this Act commits a violation of this Act and may be subject to charges for official misconduct.

(b) A person who is the knowing recipient of test information in advance of the examination shall be disqualified from the promotion examination or demoted from the rank to which he was promoted, as applicable and otherwise subjected to disciplinary actions.

(Source: P.A. 93-411, eff. 8-4-03.)

(50 ILCS 742/900)

Sec. 900. (Amendatory provisions; text omitted).

(Source: P.A. 93-411, eff. 8-4-03; text omitted.)

(50 ILCS 742/999)

Sec. 999. Effective date. This Act takes effect upon becoming law.

(Source: P.A. 93-411, eff. 8-4-03.)

APPENDIX B
DRUG AND ALCOHOL POLICY
City of Elmhurst

I. Introduction

The City of Elmhurst is committed to providing a safe and healthy work environment for its employees as well as safe, efficient and effective services for the citizens of Elmhurst and to making a good faith effort to maintain a drug and alcohol free workplace. To accomplish this, City management and employees must work together at maintaining a drug and alcohol free workplace. The unlawful use of controlled substances is inconsistent with the professional and responsible behavior we expect of employees, subjects all employees and citizens to unacceptable safety risks and undermines public confidence in the work we perform. Moreover, the health and well-being of the employee-user is jeopardized.

II. Policy

It is the policy of the City of Elmhurst to strictly prohibit employees from engaging in the unlawful manufacture, distribution, dispensation, possession or use of controlled substances, being under the influence of alcohol or other intoxicating substance, or abusing any drug, although legally obtainable (such as a prescription drug) by not using the drug for prescribed purposes or not taking the drug according to prescribed dosages at the workplace or while otherwise conducting City business whether on or off the City's premises. All employees engaged in performing government contract or grant work must agree to abide by this prohibition as a condition of continued employment on such contract or grants. The workplace includes, but is not limited to, worksites, vehicles, parking areas, buildings or wherever the employee may be located during a work shift. Such conduct is also prohibited during nonworking time to the extent that it (1) impairs an employee's ability to perform his or her job safely and efficiently; or (2) adversely affects the City's reputation or threatens its integrity.

For purposes of this policy, "controlled substance" shall be defined as any controlled substance as listed in Schedules I through V of Section 202 of the Controlled Substances Act, (21 USC 812), as now or hereafter amended, as well as any controlled substance, as defined in the Illinois Controlled Substances Act, which is not being used under the supervision of a licensed health care professional, or otherwise in accordance with federal law. For purposes of this policy, a "controlled substance" includes, but is not limited to, marijuana, opiates, heroin, amphetamines, cocaine, and LSD, as well as so-called "designer drugs" that have no recognized medical use, but are not listed in the controlled substances schedules.

For the purposes of this policy, "alcohol or other intoxicating substance" shall be defined as any alcohol product regulated by state law or City ordinance.

For purposes of this policy, "under the influence of a controlled substance" means a confirmed positive test result for a controlled substance and "under the influence of alcohol" means an alcohol concentration of .02%.

Any employee convicted of violating any criminal statute under State or federal law relating to controlled substances in the workplace must inform the City Manager of such conviction (including pleas of guilty and no contest) within five days of the date of conviction. Failure to so inform the City Manager subjects the employee to disciplinary action, up to and including termination for the first offense. By law, if the City is involved in a federal and/or State contract or grant, the City shall notify the federal and/or State contracting officer, if any, within ten days of receiving such notice from an employee or otherwise receiving notice of such a conviction, and may also impose appropriate discipline within thirty days of receiving such notice.

The City Manager or his/her designee shall be responsible for the administration of this policy. Department Heads shall be responsible for ensuring compliance with the letter and spirit of this policy. The City will provide supervisory training to assist in identifying and addressing use of controlled substances by employees. The City will establish a drug free awareness program to inform employees about the dangers of drug/alcohol abuse in the work place, this Policy and the penalties for violating it, and any drug/alcohol counseling, employee assistance or rehabilitation programs available. The City will also post a copy of this Policy in a prominent place and give a copy of it to all employees.

The City recognizes chemical dependency, including alcohol dependency, as an illness and a major health problem. The City also recognizes the use of controlled substances as a potential health, safety and security problem as well as being a criminal offense. The City's health benefit plan covers in and outpatient treatment for chemical dependency on the same basis as for any other sickness. Employees may contact the personnel department for a listing of drug/alcohol counseling programs. The City has a trained referral team in place and will assist employees of whom it requires drug counseling, treatment or rehabilitation. Conscientious efforts to seek such help will not jeopardize any employee's job and will not be noted in any personnel record.

III. Enforcement of Policy

A. When Testing is Required

During the annual physical examination, random drug and alcohol testing, and where there is reasonable suspicion to believe that an employee is either using or under the influence of alcohol or drugs in the work place, the employee shall be subject to testing.

Reasonable Suspicion Testing

Reasonable suspicion may be based upon the supervisor's observations of the employee's behavior, work, an accident involving the employee resulting in property damage or personal injury, or a co-worker's observations corroborated by

a supervisor's independent observations. The basis for which the supervisor reasonably believes an employee is either using or under the influence of alcohol or drugs shall be documented in writing by the supervisor. The supervisor shall recommend to the Department Head or his or her designee whether the employee should be required to submit to a test. Should the Department Head/designee concur with the supervisor, the Department Head/designee shall contact the Human Resources Office which shall make the necessary arrangements for the test as soon as possible. During the work shifts when the Personnel Department is not available, the Department Head/designee shall make the necessary arrangements for the test and inform the Personnel Department as soon as possible during regular work hours.

The Department Head/designee shall request of the employee to submit to the test. An employee who refuses to submit to a test shall be terminated. Where an employee agrees to submit to the test and the test is negative, no further action will be taken against the employee under the employee drug and alcohol policy. The supervisor or Department Head/designee shall retain the option of dealing with an employee's performance problem through other available means. No reference to the test shall be included in the employee's personnel file.

Random Drug and Alcohol Testing

Random drug and alcohol testing will be conducted throughout the year as follows:

- Testing will be conducted three times per year.
- Six employees will be tested each time for a total of 18 employees per year.
- Random selection of the dates and employees will be done by Elmhurst Memorial Hospital from the list provided by Human Resources.
- The hospital will fax letters of the selected individuals to Human Resources.
- Human Resources will notify the Chief or Deputy Chief of the selected shift and individuals.
- The Battalion chief will inform the shift by providing the letter to the selected individuals.
- The employee is to proceed to the Elmhurst Memorial Center for Health for the drug/alcohol test.
- The Chief and Deputy Chief will be included in the pool and assigned to a shift for the purpose of random selection.

Post-Accident Testing

If you are involved in an accident with a Fire Department vehicle, you must be tested as soon as possible for controlled substances and alcohol if: (a) the accident involved the loss of human life, or (b) bodily injury to a person, who as a result of

the injury, immediately receives medical treatment away from the scene of the accident; or (c) damage to a vehicle that requires the vehicle to be towed away from the scene of the accident; or (d) you receive a traffic citation under State or local law as a result of the accident.

If you are subject to post-accident testing, you will be tested for alcohol within two (2) hours and for controlled substances within 32 hours. You may not drink alcohol for eight (8) hours after the accident, or until you have been tested for alcohol, whichever is first. You must remain available for testing after an accident. If you do not remain available for testing, your unavailability will be treated as a refusal to test.

Information about the employee as related to the test will be kept confidential. Only those persons which of necessity must be aware of the test shall know of its existence and result. This policy to keep such information confidential shall not apply with respect to those governmental entities, if any, to which the City, by law, must report such test results.

A positive test may result in termination based upon the gravity of the circumstances surrounding the violation, the employee's work history, current performance and an overall review of the work record. If an employee is not terminated, the employee may be subject to discipline such as suspension or demotion and/or participation in and successful completion of the applicable substance abuse program as a condition of continued employment. Subsequent drug/alcohol testing may also be required as a condition of continued employment.

B. Test Procedure

An employee who consents to a drug test is consenting to an urinalysis test or, if more appropriate in a situation, a blood test. The cost of the test will be paid by the City. An employee who consents to an alcohol test is consenting to a breath or blood test.

The City shall use only licensed clinical laboratories for drug testing and shall be responsible for maintaining a proper chain of custody. The taking of urine samples shall not be witnessed unless there is reasonable suspicion to believe that the employee is tampering with the collection process. If the first drug test results in a positive finding, a confirmatory test (GC/MS or a scientifically accurate equivalent) shall be conducted. An initial positive test result shall not be submitted to the City unless the confirmatory test result is also positive as to the same sample. If the City, contrary to the foregoing, receives the results of a positive first test which is not confirmed as provided above, any such written information shall be destroyed. For alcohol, the test shall be deemed positive if it is .02 or above. Upon request, the City shall provide an employee with a copy of any test results which the City receives with respect to such employee, excepting those test results destroyed as provided herein.

A portion of any positive urine sample shall be retained by the laboratory so that the employee may arrange for another confirmatory test (GC/MS or a scientifically accurate equivalent), to be conducted by a licensed clinical laboratory of the employee's choosing and at the employee's expense. Once the portion of the testing sample is delivered by the City or

laboratory to the clinical laboratory selected by the employee, the employee shall be responsible for maintaining the proper chain of custody for said portion of the tested sample.

All test results shall be recorded in writing along with such other information as is required to assure the tests were properly conducted (including but not limited to hard copy of test results).

Because drugs taken for therapeutic reasons may result in positive laboratory results, employees who test positive shall be given the opportunity to list any prescription drugs taken in the last two weeks and the prescribing doctor, or otherwise establish a legitimate medical explanation for the test results. Such explanations shall be evaluated by a licensed physician with appropriate training, who has been retained by the City.

C. Appeal Process

For employees who test positive to the confirmatory test, before any disciplinary action is taken against the employee for a violation of this policy, the employee is entitled to an opportunity to explain the test result and challenge the test result. Upon receipt of a written notice of the test result and proposed disciplinary action, the employee who chooses to appeal the results must do so, in writing, within ten working days to the appropriate department head. Decisions of the department head may be appealed within ten working days to the Human Resources Office, who will then review and make a determination in the appeal. Decisions of Human Resources may be appealed, within ten working days to the City Manager whose decision will be final.

IV. Violation of Policy

Any violation of this policy will result in disciplinary action up to and including termination.

Conviction for unlawful manufacture and/or distribution of a controlled substance, listed in Schedules I through V of Section 202 of the Controlled Substances Act, (21 USC 812) will result in automatic termination for the first offense.

Unlawful possession of a controlled substance shall result in, at a minimum, a suspension for the first offense. More severe action may be imposed depending on the severity of the offense. A second violation within three years of the first violation will result in automatic termination. Employees found in possession of a controlled substance will be immediately turned over to the Police Department for investigation and/or prosecution.

Use, or being under the influence, of a controlled substance or alcohol will result in a minimum of suspension and will require satisfactory completion of a substance abuse rehabilitation treatment program for the first offense. A second violation within three years of the first violation will result in automatic termination.

In addition to the above disciplinary action, the employee may be subject to legal prosecution.

Arrest and conviction for off-the-job drug/alcohol activity may be considered a violation of this policy. The City shall consider factors such as but not limited to the nature of the charges, the employee's present job assignment, the employee's record with the City, the impact of the employee's conviction on the City.

Sworn police and fire personnel shall not be subject to the disciplinary action and procedures set forth in this policy to the extent such disciplinary action or procedures conflict with the rules and regulations of the Board of Fire & Police Commissioners and Division 2.1 of the Illinois Municipal Code (65 ILCS 5/10-2.1-1 *et seq.*), as now or hereafter amended.

Sworn police department employees are further subject to Elmhurst Police Department Manual Directive 14.3.3 (Unauthorized Use of Alcohol) and 14.3.4 (Unauthorized Use of Drugs).

If there is a conflict between this policy and the provisions of a collective bargaining agreement entered into by the City and a group of employees, the provisions of the collective bargaining agreement shall prevail.

As a condition of continued employment, all employees are asked to acknowledge that they have read the above policy and agree to abide by it in all respects. To assure compliance with the terms of the federal and state Drug free Workplace Acts, please sign the attached employee receipt form and return it to your immediate supervisor.

**A SIDE LETTER AGREEMENT BETWEEN THE
CITY OF ELMHURST AND THE ELMHURST PROFESSIONAL
FIREFIGHTERS ASSOCIATION, IAFF LOCAL 3541
REGARDING THE AFFIXING OF IAFF LOGOS**

WHEREAS, the City of Elmhurst (the "City") and the Elmhurst Professional Firefighters Association, IAFF Local 3541 (the "Union") are parties to a collective bargaining agreement which expired on April 30, 2014; and

WHEREAS, the City and the Union are in negotiations for a successor agreement; and

WHEREAS, the City and the Union have reached an agreement regarding the placement or replacement of IAFF logos on the engines, trucks and squads of the City's Fire Department.

NOW, THEREFORE, in consideration of the mutual promises set forth hereinafter and other good and valuable consideration, the City and the Union agree as follows:

1. Upon execution of this Side Letter, the City agrees to affix and/or to re-affix one IAFF logo, to be supplied by the Union, a photocopy of such logo being attached hereto, to the rear driver's side window of the following Fire Department vehicles of the City and any replacement Fire Department Apparatus:

Engine 1; Engine 2; Engine 3; Engine 4;
Truck 1; Truck 2;
Squad 1.

2. The parties agree that additional logos, stickers and/or signs, other than those referred to in Paragraph 1, shall not be affixed by the Union or by bargaining unit members to any other City vehicles, equipment, and/or property, absent the mutual written agreement of the City and the Union.

3. The Union hereby waives its right and the rights of its bargaining unit members to file an unfair labor practice charge regarding the City's removal of IAFF logos from City vehicles up to and including the date this Side Letter is executed.

4. Notwithstanding the above, nothing in this Side Letter is to be construed as a waiver of the Union's contention that it has the right to affix Union logos, stickers and/or signs to any new and/or additional Fire Department vehicles, equipment or property in the event the City allows other non-City logos, stickers and/or signs to be affixed to said vehicles, equipment and/or property. Furthermore, nothing in this Side Letter is to be construed as a waiver of the Union's right to file unfair labor practice charges against the City regarding future allegations pertaining to the City's removal of IAFF logos, stickers and/or signs from City vehicles, property and/or equipment.

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IN WITNESS WHEREOF, the parties hereto have executed this Side Letter Agreement on the dates indicated hereinafter.

CITY OF ELMHURST

By: [Signature]
Date: 12/2/14

ELMHURST PROFESSIONAL
FIREFIGHTERS ASSOCIATION,
IAFF LOCAL 3541

By: [Signature]
By: [Signature]
By: [Signature]
Date: December 1, 2014

