

# **APPENDIX A**

COLLECTIVE BARGAINING AGREEMENT

BETWEEN

THE CITY OF AUSTIN

AND

THE AUSTIN FIREFIGHTERS ASSOCIATION

LOCAL 975

## Table of Contents

ARTICLE 1 PREAMBLE .....	2
ARTICLE 2 DEFINITIONS.....	3
ARTICLE 3 RECOGNITION OF ASSOCIATION.....	5
ARTICLE 4 MANAGEMENT RIGHTS .....	6
ARTICLE 5 NON-DISCRIMINATION .....	7
ARTICLE 6 WORK FURLOUGHS.....	8
ARTICLE 7 ASSOCIATION DUES & PAYROLL DEDUCTIONS.....	9
ARTICLE 8 CIVIL SERVICE COMMISSION .....	11
ARTICLE 9 WAGES & BENEFITS.....	12
ARTICLE 10 ASSOCIATION BUSINESS LEAVE .....	16
ARTICLE 11 SHARED COMMUNICATIONS BETWEEN CITY & ASSOCIATION.....	19
ARTICLE 12 LEAVE PROVISIONS .....	22
ARTICLE 13 PERSONNEL DEPLOYMENT.....	28
ARTICLE 14 HOURS OF WORK.....	31
ARTICLE 15 OVERTIME.....	32
ARTICLE 16 PROMOTIONS, DEMOTIONS, & REINSTATEMENTS .....	34
ARTICLE 17 HIRING & CADET TRAINING .....	50
ARTICLE 18 INVESTIGATION & DISCIPLINARY ACTIONS.....	63
ARTICLE 19 USE OF CIVILIAN EMPLOYEES.....	74
ARTICLE 20 CONTRACT GRIEVANCE PROCEDURE .....	76
ARTICLE 21 PERSONNEL DEVELOPMENT EVALUATIONS .....	79
ARTICLE 22 HEALTH RELATED BENEFITS .....	80
ARTICLE 23 FIRE CADETS .....	81
ARTICLE 24 TESTING FOR IMPAIRMENT .....	83
ARTICLE 25 PRE-EMPTION OF CIVIL SERVICE AND OTHER PROVISIONS.....	86
ARTICLE 26 ENTIRE AGREEMENT .....	87
ARTICLE 27 MAINTENANCE OF STANDARDS .....	88
ARTICLE 28 SAVINGS CLAUSE.....	89
ARTICLE 29 NOTICES.....	90
ARTICLE 30 TERMINATION OF AGREEMENT .....	91
ARTICLE 31 MERGER WITH ATCEMS .....	92
ARTICLE 32 LINE OF DUTY DEATHS.....	93

**ARTICLE 1  
PREAMBLE**

**Section 1. INTENT OF AGREEMENT**

This Agreement is made between the City of Austin, Texas, hereinafter referred to as the “City,” and the Austin Firefighters Association, Local 975 of the International Association of Fire Fighters, AFL-CIO-CLC, hereinafter referred to as the “Association.”

**Section 2. PURPOSE OF AGREEMENT**

WHEREAS, the citizens of the City of Austin have by referendum election chosen the Collective Bargaining Process as a fair and orderly way of conducting its relations with Austin Fire Fighters; and

WHEREAS, the Association has pledged to support the service and mission of the Austin Fire Department, to constructively support the goals and objectives of the Austin Fire Department, and to abide by the statutorily imposed no strike or work slowdown obligations placed upon it;

WHEREAS, it is the intent and purpose of this Agreement to achieve and maintain harmonious relations between the parties, and to establish benefits, rates of pay, hours of work, and other terms and conditions of employment for all members of the bargaining unit and to provide for the equitable and orderly adjustment of grievances that may arise during the term of this Agreement; and

WHEREAS, it is the intent and purpose of the parties to set forth herein their entire Agreement;

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements contained herein, the parties mutually agree as follows.

## **ARTICLE 2 DEFINITIONS**

The following definitions apply to terms used in this Agreement, unless a different definition is required by the context in which the term is used.

1. “Agreement” refers to this Collective Bargaining Agreement.
2. “Alternate Cadet Training Class” means an expedited training class of no less than 14 full weeks duration that is available to candidates on the ranked entry level eligibility list who possess TCFP and NREMT certification.
3. “Association” means the Austin Firefighters’ Association, Local No. 975 of the International Association of Fire Fighters, AFL-CIO-CLC, and its officers and agents authorized to act on its behalf.
4. “Authorized Association Representative” means a representative of the Association authorized by the Association’s Executive Board to conduct business on behalf of the Association.
5. “City” means the City of Austin, Texas, the Austin Fire Department and its officers, agents, managers, and others authorized to act on its behalf.
6. “City of Austin Personnel Policies” means, unless otherwise provided herein, those provisions of the City of Austin Personnel Policies, as adopted by the City Council, that apply to Chapter 143 Public Safety Civil Service employees.
7. “Civilian employee(s),” “civilian(s),” or “non-civil service employee(s)” means any employee of the Austin Fire Department who is not a fire fighter as defined in Local Government Code §143.003(4).
8. For purposes of Article 22 - Health Related Benefits, “employee” or “City employee” does not include members of the city council and their direct staff; persons who are appointed or elected by the city council pursuant to the City Charter; the city manager and assistant city managers; department directors; and assistant department directors.
9. “Consensus” means a form of group decision-making in which everyone discusses the issues to be decided so that the group may benefit from the knowledge and experience of all its members. In order for consensus to occur, every member of the group must be able to support the decision.
10. “Department” means the Austin Fire Department, acting through its management staff.
11. “Expiration date of this Agreement” means September 30, 2025, unless otherwise specified.

12. “Fire Chief” means the Fire Chief of the Austin Fire Department and is synonymous with the term “department head” as used in Local Government Code Chapter 143.

13. “Fire Fighter” means any employee who is a “fire fighter” as defined in Local Government Code §§143.003(4) and 174.003(2), employed by the Austin Fire Department. It excludes the Fire Chief, non-Civil Service employees, retirees, and any other employees specifically exempted by the terms of this Agreement.

14. “Hiring cycle” means the time period between the announcements for accepting applications through the final approval of an eligibility list, including any subsequent corrections.

15. “Hiring process” or “hiring selection process” means the components used to screen and test applicants to become eligible for selection as a fire cadet under the terms of the Consent Decree.

16. “Immediate family” means the following members of a Fire Fighter’s family:

- a. Parents (biological parents, adoptive parents, or persons in loco parentis to the Fire Fighter when the Fire Fighter was a child);
- b. Spouse (husband, wife, or domestic partner);
- c. Child (biological, adopted, foster, stepchild, legal ward, or a child for whom the Fire Fighter is a person standing in loco parentis);
- d. Sisters or brothers;
- e. Grandparents;
- f. Grandchildren;
- g. Parents and grandparents of a Fire Fighter’s spouse; and
- h. Any relative living in the same household with a Fire Fighter.

17. “Local Government Code Chapter 143” and/or “Chapter 143” refers to those portions of the Fire Fighter and Police Officer Civil Service Act, Texas Local Government Code Chapter 143 which are applicable to the City.

18. “Local Government Code Chapter 174” and/or “Chapter 174” refers to the Fire and Police Employee Relations Act, Texas Local Government Code Chapter 174.

**ARTICLE 3**  
**RECOGNITION OF ASSOCIATION**

The City recognizes the Association as the sole and exclusive bargaining agent for all Fire Fighters pursuant to Local Government Code Section 174.101. Recognition of the Association as the exclusive bargaining agent does not make the Association a necessary party to disciplinary agreements between an individual Fire Fighter and the Fire Chief.

## **ARTICLE 4 MANAGEMENT RIGHTS**

The City retains all inherent rights to manage the Fire Department and its work force which it enjoys under applicable law, subject to applicable federal and state statutes and local ordinances, resolutions, and rules, except as specifically provided in this Agreement. These rights include, but are not limited to: direction of the work force, including but not limited to, the right to hire, the right to discipline or discharge in accordance with Chapter 143 and this Agreement; the right to establish, eliminate, or modify the job qualifications for hiring; the right to lay-off or abolish positions; the right to establish, eliminate, or modify rules and regulations governing conduct and safety; the right to make minor modifications to existing schedules of work together with the right to establish, eliminate, or modify the methods, processes and manner of performing work; the right to evaluate, supervise, and manage performance of the employees; the right to determine the size of the work force, and the assignment of work to Fire Fighters within the Department, including the right to transfer Fire Fighters; the right to establish, eliminate, or modify policy affecting the selection of new Fire Fighters; the right to establish the services and programs provided by the Department, including the nature and level of such services and programs, as well as the type and quantity of resources allocated; the right to establish, eliminate, or modify work performance measurements and standards; and the right to implement, programs to increase the cost effectiveness of departmental operations.



**ARTICLE 5**  
**NON-DISCRIMINATION**

Neither the City nor the Association shall interfere with the right of Fire Fighters covered by this Agreement to become or not become members of the Association, and there shall be no discrimination against such Fire Fighters because of lawful Association membership or non-membership activity or status. Nothing in this Agreement will be construed to prevent the Association from requiring Fire Fighters desiring to obtain or retain Association membership to meet its lawful membership requirements. Nothing in this Agreement will be construed to impose on the Association any obligations to non-members of the Association greater than those imposed by the law.

**ARTICLE 6**  
**WORK FURLOUGHS**

It is expressly agreed and understood that during the term of this Agreement, Fire Fighters covered by this Agreement shall be exempt from any mandatory employee work furlough or other unpaid leave plan implemented by the City for the purpose of reducing base wages paid to employees by reducing an employee's normal work hours. This Article does not apply to disciplinary actions.

**ARTICLE 7**  
**ASSOCIATION DUES & PAYROLL DEDUCTIONS**

**Section 1. DUES CHECK OFF**

Upon receipt of a proper and signed authorization from an Association member and written approval by the Association, the City will deduct from the Association member's pay regular Association dues in the amount set by the Association. The authorization shall be made on a form supplied by the City. The Association shall notify the City of any change in the amount of the regular dues.

**Section 2. OTHER PAYROLL DEDUCTIONS**

A. The City will continue to deduct from Association members' pay, upon receipt of an authorization from an Association member and written approval by the Association, deductions in the amount specified by the Association member, for up to ten (10) specific organizations or benefits. The initial organizations or benefits are the following:

Austin Fire Fighters Political Action Committee (PAC)  
AFD Historical Museum  
Austin Firefighters Relief and Outreach Fund  
Austin Firefighters Benevolent Fund  
Emergency Services Pipes and Drums Association (ESPADA)

For the Benevolent Fund and Association dues, the Association may change the amount of deduction for those employees who have authorized payroll deductions by providing notification to the City at least three pay periods in advance of the change if authority has been given to the Association by the employee either through written agreement or bylaws of the Association.

B. The Association may add or change the specific organizations or benefits for which deductions may be made up to the ten (10) permitted, subject to approval by the City. In approving the request, the City may consider the type of use and whether the City's involvement in the funding of such organizations or benefits is appropriate. Upon request, the Association will provide appropriate documentation and/or information from which the City may determine and verify that adequate accounting safeguards and controls exist to protect employee funds. The City will not unreasonably delay or withhold approval for the use of deductions. Requests will be submitted to the persons designated in accordance with Article 29, *Notices*.

**Section 3. PRIOR AUTHORIZATIONS**

Prior to the effective date of this Agreement, the Association will furnish to the City a list of all Association members. Listed members who authorized dues or payroll deductions prior to the effective date of this Agreement will not be required to submit a new payroll deduction form. Members who are not included in the list must submit proper authorization requesting dues or payroll deductions.

**Section 4. REMITTANCE OF DEDUCTIONS**

The amounts withheld by the City for dues and payroll deductions will be promptly remitted to the Association's Treasurer.

**Section 5. ASSOCIATION PAYMENT OF DEDUCTION COSTS**

The Association agrees to reimburse the City for the cost of making such deductions in an amount not to exceed ten cents (\$.10) per deduction. The City will not charge this fee for six organizations which have been approved under Section 2B above, as named by the Association. The Association shall have the right to change which organizations comprise these six, but shall give sixty (60) days written notice to City prior to any such change.

**Section 6. CORRECTION OF ERRORS**

The Association will refund to the City any amount paid to the Association in error under this Article. The City will reimburse an Association member for any amount erroneously deducted from the Association member's pay under this Article.

**Section 7. INDEMNITY**

The Association agrees to indemnify the City and hold it harmless against any and all claims, demands, suits, or other forms of liability that may arise out of, or by reason of, any claim by any current or former Association member concerning actions taken by the City for the purposes of complying with any notification by the Association under Section 1 or Section 2 of this Article changing the amount of any deduction.

**Section 8. EFFECT OF CONTRACT EXPIRATION**

The provisions of this Article shall remain in full force and effect after expiration of this Agreement until either a successor Agreement has been reached, or twelve (12) months after expiration of this Agreement, whichever occurs first.

**ARTICLE 8  
CIVIL SERVICE COMMISSION**

**Section 1.     *EX PARTE* COMMUNICATIONS WITH COMMISSION**

The parties agree that neither the City nor the Association shall have *ex parte* communications with any member of the Civil Service Commission concerning any Commission proceedings such as disciplinary appeals, promotional bypasses, or examination appeals. This section does not prohibit the Civil Service Director or the Director's staff from communicating with Commissioners to the extent necessary to perform their duties in connection with the Commission, provided that such communications are in accordance with applicable law and ethics requirements.

**Section 2.     AGREED SCHEDULING OF DISCIPLINARY HEARINGS**

In any appeal of a suspension, including an indefinite suspension, the suspended Fire Fighter (or the Fire Fighter's designated representative) and the Fire Chief by written agreement may schedule or re-schedule the hearing on a date more than 30 days after the date the Commission receives the Fire Fighter's notice of appeal. Upon receipt of such written agreement, the Civil Service Director shall schedule the hearing on the agreed date unless a quorum of the Commissioners is unavailable. If a quorum of Commissioners is not available on the agreed date, the Director shall confer with the Fire Fighter (or the Fire Fighter's designated representative) and the Fire Chief to select a new date for the appeal hearing when the parties and a quorum of the Commissioners are available.

**ARTICLE 9  
WAGES & BENEFITS**

**Section 1. BASE WAGES.**

**A. Policy**

The parties' shared goal in this Agreement is to strive to increase Fire Fighters' base wages sufficiently to approximate increases in the local cost of living during that same time period for which the base wage increases are provided.

**B. Base Wage Increases**

**1. For Fiscal Year 2023-2024.** Effective with the biweekly pay period that begins September 24, 2023, the pay scale attached hereto as Appendix A-1 shall apply to all Fire Fighters covered by this Agreement. Appendix A-1 reflects an 8.16% increase to base wages over the pay scale for Fiscal Year 2021-22 as reflected in Appendix A-5 of the 2017-22 Agreement between the parties.

**2. For Fiscal Year 2024-2025.** Effective with the first full pay period of Fiscal Year 2024-2025, the pay scale attached hereto as Appendix A-2 shall apply to all Fire Fighters covered by this Agreement. Appendix A-2 reflects a 4.0% increase to base wages over the pay scale attached as Appendix A-1.

**C. Lump Sum Payments.**

**1.** At the payday for the pay period beginning October 22, 2023, each Fire Fighter shall receive a lump sum payment in the gross amount equal to four percent of their annual base wages as reflected in Appendix A-5 of the 2017-22 Agreement between the parties.

**2.** At the payday for the pay period beginning October 22, 2023, each Fire Fighter shall receive a lump sum payment in the gross amount equal to two percent of: [(their annual base wages as reflected in Appendix A-5 of the 2017-22 Agreement between the parties) times (1.04)].

**3.** At the payday for the pay period beginning November 5, 2023, each Fire Fighter shall receive a lump sum payment in the gross amount equal to four percent of their hourly base rate as reflected in Appendix A-5 of the 2017-22 Agreement between the parties multiplied by the number of overtime hours worked by the Fire Fighter between October 1, 2022 and September 23, 2023.

**4.** At the payday for the pay period beginning November 5, 2023, each Fire Fighter who received Bilingual Translation Pay or Staff Schedule Pay at any time between July 1, 2023 and the effective date of this Agreement shall receive a lump sum payment in the gross amount equal to the difference in the pay rates for those special pays between the rates in the 2017-

22 Agreement between the parties and the pay rates for those special pays provided in Ordinance No. 20140306-010 over the period from July 1, 2023 through the effective date of this Agreement.

5. These lump sum payments are subject to tax withholdings as required by law.

**Section 2. ADDITIONAL PAY ITEMS**

**A. Assignment and Specialized Functions Pay**

The following Assignment and Specialized Functions Pay items shall continue to be available in accordance with criteria and procedures adopted by the Fire Chief:

Airport Fire and Rescue Pay	\$150 per month
Bilingual Translation Pay*	\$175 per month
Staff Schedule Pay:	
• For each consecutive month in a Staff Position, including Assistant Chief, for up to 24 months	\$450 per month
• For each consecutive month in a Staff Position, immediately following 24 months with no break in the Staff assignment	\$600 per month
Special Operations Teams Pay	\$150 per month
Wildfire Battalion Pay	\$150 per month
Arson Division Pay	\$150 per month
Dispatch Division Pay	\$150 per month

\*Bilingual Translation Pay applies, at a minimum, to the following languages: Spanish, American Sign Language, and Asian (Vietnamese, Cantonese, Mandarin, Thai, Korean, Japanese, and Malaysian). A Fire Fighter may receive Bilingual Translation Pay for only one (1) language.

**B. Longevity Pay**

1. On the effective date of this Agreement, the City will continue to pay Fire Fighters longevity pay in the amount of One Hundred Dollars (\$100.00) per year for each year of service up to a maximum of twenty-five (25) years of service.

2. Beginning with the effective date of this Agreement, longevity pay shall be paid on an annual basis in a lump sum in the first regularly scheduled pay period after the Fire Fighter's anniversary date. This change in payment of longevity does not affect the treatment of longevity for retirement and overtime purposes, and the City and the Fire Fighters shall continue making retirement contributions for longevity payments.

**C. Education Incentive Pay and Firefighter Certification Pay**

During the term of this Agreement, the City shall pay eligible Fire Fighters either Educational Incentive Pay or Firefighter Certification Pay at the rates specified in City of Austin Ordinance No. 20140306-010. To be eligible for such additional pay, the Fire Fighter must meet the criteria and comply with the requirements established by Part 2 of such Ordinance. A Fire Fighter shall not be entitled to receive both Education Incentive Pay and Firefighter Certification Pay.

**D. Reimbursements**

During the term of this Agreement, the following reimbursements will be paid in accordance with City policy:

1. Mileage paid for travel between stations;
2. Reimbursement of auto insurance deductible.

**E. Preemption**

Fire Fighters shall be entitled to the Wage and Benefit provisions in this Article, in current state statutes except as amended by this Article, and Department policy as of the effective date of this Agreement. No change to or adoption of any state statute, Executive Order, local ordinance, resolution, rule or policy after the effective date of this Agreement shall alter or add to the terms of this Agreement in respect to Wages and Benefits.

**Section 3. ASSISTANT CHIEFS**

A. The Fire Chief has the right to set wages and benefits for the Assistant Chiefs, subject to the approval of the City Council as a part of the budget. The base salary of each Assistant Chief shall be at least 12.8% higher than the base salary for the rank of Division Chief. The Fire Chief may designate one Assistant Chief as the Executive Assistant Chief or Chief of Staff, whose pay and benefits may be different than the other Assistant Chiefs.

B. Assistant Chiefs shall be compensated on a salary basis and are exempt employees for purposes of overtime compensation under applicable federal law.

C. Assistant Chiefs shall be entitled to wages and benefits as provided in this Article, including staff schedule pay, and as to Assistant Chiefs, this Article shall totally preempt any provision for wages and benefits under state statute, including but not limited to Chapter 141, 142 and 143 of the Local Government Code, Executive Order, local ordinance, resolution or rule.

**Section 4. EMT CERTIFICATION**

During the term of this Agreement, the Department shall have a policy requiring all Fire



Fighters through the rank of Battalion Chief to maintain EMT certification at the EMT-B skill level. If a state of emergency exists in the City of Austin, the Chief may require any Fire Fighter to perform duties requiring EMT-I or EMT-P skill levels without additional compensation. If, however, the Chief requires Fire Fighters to perform duties requiring EMT-I or EMT-P skill levels when such a state of emergency does not exist, those Fire Fighters will be compensated on the basis of a market-based study.

#### **Section 5. MONTHLY PAID COMPENSATION**

It is expressly understood and agreed that the City reserves the right to pro-rate and pay all monthly payments in bi-weekly equivalents.

#### **Section 6. PAY AVERAGING**

During the term of this Agreement, the City may discontinue the current practice commonly known as “pay averaging” if the City determines in good faith that such practice violates the requirements of the Fair Labor Standards Act, 29 U.S.C. §§201 *et seq.*, and its implementing regulations. The City will provide ninety (90) calendar days advance notice of the date the practice will be discontinued. Such notice will be provided to the Association President and will be posted on Fire Net.

#### **Section 7. RETIREMENT CONTRIBUTIONS**

During the term of this Agreement, the City’s contribution rate to the Austin Fire Fighters Relief and Retirement Fund will continue to be no less than 22.05%.

#### **Section 8. FIREFIGHTER RESIDENCY INCENTIVE PAY**

A. The City Council may authorize firefighter residency incentive pay if the ordinance applies equally to each Firefighter who meets the criteria established by the ordinance.

B. The residency incentive pay shall be in an amount and is payable under conditions, requirements and criteria set by the ordinance. residency incentive pay is in addition to the base salary received by Firefighters.

C. The Fire Chief is not eligible for the residency incentive pay authorized by this Section.

D. To the extent of any conflict between this Section and portions of any state statute, local ordinance, City or Department policy, including but not limited to Texas Local Government Code §143.041, the provisions of this Section shall preempt such statute, local ordinance, City or Department policy only to the extent of such conflict.

**ARTICLE 10**  
**ASSOCIATION BUSINESS LEAVE**

**Section 1. ASSOCIATION BUSINESS LEAVE**

**A. Creation of Association Business Leave**

Authorized Association Representatives shall be permitted to have paid time off, designated as Association Business Leave (ABL), to conduct Association business under the conditions specified in this Article.

**B. Permitted Uses of ABL**

1. The Association President and one additional Authorized Association Representative designated to perform extended Association duties may use ABL for any lawful Association business activities consistent with the Association's purposes, if such person is eligible for ABL in accordance with this Article. ABL utilization under this section shall be limited in that no ABL leave shall be allowed for time related to legislative testimony and/or engaging in campaign activity.

2. For Authorized Association Representatives not designated in subsection 1, above, ABL may be used for Association business activities that directly support the mission of the Department or the Association, but do not otherwise violate the specific terms of this Article. Association business is defined as time spent by an Authorized Association Representative in Collective Bargaining negotiations, adjusting grievances, attending dispute resolution proceedings, addressing cadet classes during cadet training (with prior approval of the time and content by the Fire Chief, or his/her designee), and attending union conferences and meetings. It is specifically understood and agreed that ABL shall not be utilized for legislative and/or political activities at the State or National level, unless those activities relate to the wages, rates of pay, hours of employment, or conditions of work affecting the members of the bargaining unit. At the local level, the use of ABL for legislative and/or political activities shall be limited to raising concerns regarding firefighter safety. Association Business Leave shall not be utilized for legislative and/or political activities related to any election of public officials or City Charter amendments. Association Business Leave shall not be utilized for legislative and/or political activities that are sponsored or supported by the Association's Political Action Committee(s). Association Business Leave shall not be utilized for legislative and/or political activities at the local, state, or national levels that are contrary to the City's adopted legislative program. No Association Business Leave shall be utilized for activities prohibited by Section 143.086 of Chapter 143 or by the Texas Ethics Commission. Nothing contained in this Subsection is intended to limit the use of the individual firefighter's vacation time for legislative and/or political activities.

**C. Written Request Required**

All requests for ABL must be in writing and submitted at least 3 business days in advance to HQ support staff. To be considered timely, the request must be received in person or by e-mail by noon of the day notice is due.

**D. Approval of ABL Requests**

The Fire Chief or the Fire Chief's designee shall approve timely ABL requests subject only to the operational needs of the Department.

**Section 2. FUNDING AND ADMINISTRATION OF THE ASSOCIATION BUSINESS LEAVE POOL**

**A. Manner of Funding**

During the first ten (10) days of each calendar year, the City will contribute 6,100 hours of Association Business Leave to a pool of leave time which may be used in accordance with this Article. The City will track deductions from the pool as Association Business Leave is used. On the effective date of this Agreement, the City will restore the ABL balance that existed on June 30, 2023, less any ABL hours used on or before June 30 but not yet deducted from the pool.

**B. Administration of Pool**

Up to one thousand (1,000) hours remaining at the end of a calendar year will remain in the pool for use in the following year. However, at no time may the pool exceed seventy-one hundred (7,100) hours. Up to one thousand (1,000) hours in the pool at the end of the Agreement will be available for use in the following year for Association Business Leave activities. The City and the Association shall track utilization of ABL.

**C. Use of Association Business Leave by Association President and other Authorized Association Representatives designated to Perform Extended Association Duties**

If the Association President is an employee of the Department, they shall be permitted up to 2080 hours of Association Business Leave from the pool balance per year, less accrued leave time, which must be used under AFD policies, and shall be assigned to a 40-hour work week. If the Association president is not an employee of the Department, the Association may designate an Association member who is an employee of the Department who will be permitted to use the ABL hours designated for the President in this subsection, and who shall be assigned the 40-hour schedule described in this subsection.

The Association President and an Association member designated to perform extended Association duties in section 1.B.1 shall account for all leave time taken under such status through the Fire Chief's office, by submission of a written accounting of time utilized each payroll period certifying that the ABL usage was not related to legislative testimony and/or engaging in campaign activity, and such time shall be subtracted from the Association leave pool. Any use of ABL leave under section 1.B.1 that requires the Fire Fighter to leave the jurisdiction of the City

requires at least 24 hours written notice to the Fire Chief or their designee. The Association President and an Association member designated to perform extended Association duties in section 1.B.1 will not be entitled to overtime pay from the City for any hours using ABL leave. The Association President may at any time be required to return to duty if an emergency situation exists. The Association President may also be assigned to any special projects at the discretion of the Fire Chief. The pool balance will not be reduced by any hours that the President actually works at the direction of the Fire Chief. At the end of his/her term, the Association President will be allowed to return to the assignment they occupied before commencing ABL to perform duties as Association President.

Up to four additional Authorized Association Representatives may be designated to perform extended Association duties under Section 1.B.1 with at least 14 days written notice to the Fire Chief or their designee, not to exceed 2080 cumulative hours of Association Business Leave from the pool balance each calendar year, less accrued leave time, which must be used under AFD policies. However, only one Authorized Association Representative shall be so designated at any given time. Such ABL usage shall be under the terms as set out in section 1.A above. No individual Authorized Association Representative shall be so designated for a period of less than 519 consecutive work hours. Use of ABL by an Authorized Association Representative under Section 1.B.1 does not create a vacancy under Article 16, Section 18 of the Agreement. At the end of their assignment, the Authorized Association Representatives will be allowed to return to the assignment they occupied before commencing ABL.

#### **D. Administrative Procedures**

Administrative procedures and details regarding the implementation of this Article shall be specified in Departmental policy.

**ARTICLE 11**  
**SHARED COMMUNICATIONS BETWEEN CITY & ASSOCIATION**

**Section 1. NEED FOR SHARED COMMUNICATIONS**

The parties have agreed that there may be times when shared communications will be necessary and desirable. When those occasions occur, the parties have agreed to certain principles, as detailed in this Article.

**Section 2. PRINCIPLES AND GOALS OF SHARED COMMUNICATIONS**

**A. Avoidance of Personal Attacks**

Whenever Fire Department management or the Association finds it desirable to communicate with members of the Department or the public, it is specifically agreed that each will avoid personal attacks or inflammatory statements.

**B. Co-sponsored events**

It is also a goal of shared communications that Fire Department management and the Association will identify and participate in co-sponsored events.

**C. Association Representation on Department Committees**

Finally, it is a goal that the Association locates and assigns Association representatives to Fire Department committees established by the Fire Chief to advise on policies or working conditions.

**Section 3. SHARED COMMUNICATIONS SYSTEMS**

**A. Association Bulletin Boards**

The Association shall be permitted to use Association bulletin boards located at Fire Department work sites, after approval of placement and number by the Fire Chief. The Association's bulletin boards will be monitored by both Association battalion stewards and by station officers for content. The following Guidelines shall apply to materials posted on the bulletin boards:

1. There shall be no personal attacks or inflammatory statements;
2. All materials shall be directed toward dissemination of general Association information and advising members of events, meeting, and functions;
3. Department property (bulletin boards on AFD premises, the Pony, and email) is for public business only, and is not dedicated or made available for expressing or debating views or issues, or for any type of political campaign or election information or endorsements (this limitation does not apply to elections for Association officers, provided that only brief notices

naming the individual rank, years of service and Association office sought shall be permitted);

4. Any concerns about the content of posted material shall be brought to the attention of the Association President or designee for review and adjustment as soon as the concerns are noticed. The objectionable material shall be removed from the bulletin board until final determination. An Association notice may include a simple reference to another source for further information such “See AFA Web Page or the Smoke Signal”; and

5. The Fire Chief retains the final decision as to whether Association materials may be posted on bulletin boards except as to the items noted in (B) 1-5 below, which may be posted without prior approval.

**B. Association Use of the Pony and Station Computers and Printers**

The Association may also request approval to distribute specific Association materials to the stations through the Department’s inter-office mail system (the “Pony”). The Fire Chief, or her/his designee, shall not unreasonably deny such permission. With approval of the Fire Chief, or designee, the Association may be granted approval to use station printers and computers for rapid dissemination of information. After initial approval of a particular type of routine communication, subsequent approval of these types of communications is not required. Use of the Pony or the Department’s computers to disseminate information without prior approval shall be limited to members of the Executive Board and the Association President, on the following categories:

1. Items approved by the Executive Board of Local 975 and certified by the Board as in compliance with the provisions of this Article;
2. Dissemination of Local 975 meeting agendas;
3. Special notices of Association events, activities, member opportunities, public service announcements such as “Fill the Boot” or reminders to vote;
4. Notices of committee meetings; and
5. Notices of family member deaths.

Materials distributed in the Pony or on computer shall meet the same Guidelines as contained in Section 3.A. above regarding bulletin boards. Other communications between Fire Department Management and Association Representatives may be included by advance approval.

**C. Other Association Distributions**

Except for the categories specifically permitted without advance approval, the Fire

Chief retains the final decision as to whether Association materials may be distributed on or using Department property. A copy of any material sent without prior approval shall be provided by email or photocopy for the Executive Staff.

#### **Section 4. Joint Communications**

In order to reduce the number of rumors in the Department, the parties have agreed to certain methods of joint communications. These include but are not limited to including a column in any Fire Department publication (should one again be published in the future) in which the Association will be permitted to address rumors. The Association also will permit the Fire Chief space for a column in the "Smoke Signal" (or other successor publication) in which to address rumors. If both parties agree, members of Fire Department management and the Association may make joint appearances at Departmental meetings in order to address critical communications.

**ARTICLE 12  
LEAVE PROVISIONS**

**SICK LEAVE**

**Section 1. SICK LEAVE ACCRUAL RATES**

Sick leave shall be accrued at the following rates:

53-hour week employees – 7.50 hours per pay period

40-hour week employees – 5.00 hours per pay period

**Section 2. SICK LEAVE USE**

A. The use of sick leave will be allowed in case of health care appointments, personal illness, or physical incapacity of an employee. It will also be allowed when a Fire Fighter is required to care for a member of his/her immediate family who is ill or incapacitated due to a medical condition.

B. Sick leave may be taken in intervals of one-quarter hour for all time that the employee is absent during a regular work day.

**Section 3. PAYMENT OF SICK LEAVE UPON SEPARATION**

Upon separation, maximum payout of sick leave shall be as follows:

53-hour week employees – 1080 hours

40-hour week employees – 720 hours

**VACATION LEAVE**

**Section 4. VACATION ACCRUAL RATES**

Vacation leave shall be accrued at the rates in effect for Fire Fighters as of October 1, 2014.

**Section 5. LEAVE ACCRUALS FOR CERTAIN FIRE FIGHTERS ON FORTY HOUR WORKWEEK**

Those Fire Fighters who work a forty hour workweek and those who volunteer to work four 10-hour days per work week, shall have their leave accruals calculated as follows: Leave shall be accrued on the basis of an eight (8) hour day rate. Leave must be used on an hour-per-hour basis.



**Section 6. VACATION USE**

All vacation leave shall be scheduled and used in accordance with Department procedures approved by the Fire Chief, which shall include a vacation selection process based on seniority. The procedures may permit approval of vacation for up to two Fire Fighters per unit assigned to the same station regardless of the unit to which they are assigned.

**Section 7. VACATION SLOTS**

The number of vacation slots that each Battalion will receive per shift will depend on the number of Fire Fighter positions (excluding Battalion Chiefs) assigned to that Battalion based on the ratio of one vacation slot for every seven (7) Fire Fighter positions (excluding Battalion Chiefs) or fraction thereof.

**Section 8. EXTRA VACATION SLOTS ON CERTAIN HOLIDAYS**

The parties recognize that having one extra vacation slot available per Battalion per shift on Thanksgiving and Christmas is desirable. Therefore, the City agrees to permit one additional Fire Fighter per Battalion and per shift to schedule vacation time for the shift of, the shift before and the shift after Thanksgiving and Christmas. These slots will be in addition to those permitted under Section 7 above.

**Section 9. VACATION: MAXIMUM LEAVE ACCRUALS**

Maximum accrual of vacation shall be as follows:

53-hour week employees – 600 hours

40-hour week employees – 400 hours

The Fire Fighter will not receive financial compensation for any hours in excess of the cap.

**Section 10. VACATION/SICK LEAVE BUYBACK**

During the first year of this Agreement, the City will budget up to \$500,000.00 for vacation/sick leave buyback, available on a first come, first served basis. If the employee elections as allowed under this Section exceed this dollar amount, the sick and/or vacation leave bought back by the City shall be reduced pro-rata for all persons who elected to participate. No employee shall lose any leave balance which is not purchased.

Vacation/sick leave buyback is available at the end of each six-month period covered by this Agreement for each year in which the program continues to:

1. Operations Fire Fighters who have used 24 hours or less of sick leave during the

- immediately preceding six-month period, and
2. Non-Operations Fire Fighters who have used 16 hours or less of sick leave during the immediately preceding six-month period.

The City Manager, at his/her sole option, may continue the vacation/sick leave buyback program in subsequent years of the Agreement. The Manager's decision to continue the option in any subsequent year will not bind the Manager from continuing it in other years.

Employees will be permitted to sell back accrued leave, to the extent and under the limitations set forth in this Section.

- (a) Members must have a minimum sick leave balance of 240 hours in order to be eligible for the Buy Back program; and
- (b) The Buy Back program will be capped at a maximum 24 hrs. per individual per each six month period, 48 hours total for the fiscal year; and
- (c) For 40 hour week staff members the Buy Back program will be capped at a maximum 8 hrs. per individual each six month period, 16 hrs. total for the fiscal year.

Employees must elect to sell back in writing, on or before October 1, and April 1, respectively for each immediately preceding six (6) months of each sell back year, using a form provided by the Chief or his designee. Payments shall be made in the months of November and May, respectively, of the applicable year should the program be continued in any year after the first year of the Agreement.

Catastrophic Sick Leave donations shall not be counted as Sick Leave Used.

#### **Section 11. PAYMENT OF VACATION LEAVE UPON SEPARATION**

Upon separation, maximum payout of vacation leave shall be as follows:

53-hour week employees – 360 hours

40-hour week employees – 240 hours

#### **Section 12. ACCRUALS**

Sick leave and vacation leave shall accrue only in pay periods for which benefits accrue.

#### **Section 13. FAMILY AND MEDICAL LEAVE**

The provisions of the City of Austin Personnel Policies shall apply to the use of leave pursuant to the Family and Medical Leave Act (FMLA).

## **EMERGENCY LEAVE**

### **Section 14. AVAILABILITY AND AMOUNT OF EMERGENCY LEAVE**

Emergency Leave is available to be used only for a death in the Fire Fighter's immediate family. A Fire Fighter on a 53-hour week is allowed four (4) days [forty-eight (48) hours] of Emergency Leave. A Fire Fighter on a 40-hour week is allowed five (5) days [forty (40) hours] of Emergency Leave. Emergency leave may be used on no more than four (4) occasions per calendar year, unless the Fire Chief grants a hardship exception to this limit.

### **Section 15. EMERGENCY LEAVE NOT SUBTRACTED FROM OTHER LEAVE**

A Fire Fighter's leave balances will not be reduced by usage of Emergency Leave.

## **CATASTROPHIC LEAVE**

### **Section 16. CATASTROPHIC LEAVE**

The Department shall establish a procedure whereby sick leave may be donated and used. The Department will establish criteria for the donation and use of hours for the identified need, and the appropriate amount of donated hours. Included in the criteria will be a one-hour minimum donation and a specified beginning and ending date for the donation period. This procedure shall be subject to final approval by the Fire Chief before it is implemented. All requests for use of donated sick leave will be subject to approval of the Fire Chief.

## **MILITARY LEAVE OF ABSENCE**

### **Section 17. MILITARY LEAVES OF ABSENCE**

Military leave for annual duty in the military reserves or national guard will be granted in accordance with Local Government Code Section 143.072, plus an additional 48 hours for a Fire Fighter assigned to a 53 hour work week. A leave of absence for initial military training or a recall to active military duty will be granted in accordance with Local Government Code Section 143.072. Notwithstanding any provision of Section 143.072 of the Local Government Code, neither military leave nor military leave of absence requires approval of the Civil Service Commission.

## **HOLIDAYS**

### **Section 18. HOLIDAYS**

During the term of this Agreement, the following official holidays for City employees will

be observed. If a holiday falls on Saturday, it will be observed on the preceding Friday; if a holiday falls on Sunday, it will be observed on the following Monday.

New Year's Day	January 1
Martin Luther King, Jr.'s Birthday	Third Monday in January
Washington's Birthday	Third Monday in February
Memorial Day	Last Monday in May
Juneteenth***	June 19
Independence Day	July 4
Labor Day	First Monday in September
Veteran's Day	November 11
Thanksgiving Day	Fourth Thursday in November
Day After Thanksgiving	Friday after Thanksgiving
Christmas Eve*	December 24
Christmas Day*	December 25
Two Personal Holidays**	Open

\*Department policy and procedure will specify how these adjacent holidays are observed when either or both of them fall on a Saturday or Sunday.

\*\*Personal holidays will be used in accordance with Department policy and procedure. One of the two personal holidays will count as the Fire Fighter's September 11 holiday. Both parties agree this section is in compliance with the state statute regarding the September 11 holiday for Fire Fighters.

\*\*\* For 2023 only, Fire Fighters will receive exception vacation leave credit in lieu of the Juneteenth holiday (24 hours for 53-hour scheduled Fire Fighters and 16 hours for 40-hour scheduled Fire Fighters). In the event this credit causes a Fire Fighter to exceed the cap on exception vacation accrual in Sec. 20 of this Article, the City will pay the Fire Fighter for the excess hours above the cap at the payday for the pay period that begins November 5, 2023.

## **EXCEPTION VACATION**

### **Section 19. EXCEPTION VACATION**

Exception vacation hours are hours banked in a separate leave account as each holiday occurs. Use of exception vacation hours is subject to the same Department policies and procedures that apply to use of regular vacation hours.

**Section 20. MAXIMUM ACCRUALS.**

Maximum accrual of exception vacation shall be as follows:

53-hour week employees – 264 hours

40-hour week employees – 176 hours

The Fire Fighter will not receive financial compensation for any hours in excess of the cap.

**Section 21. PAYMENT OF EXCEPTION VACATION UPON SEPARATION**

Upon separation, maximum payout of exception vacation shall be as follows:

53-hours/ week employees – 264 hours

40-hours/ week employees – 176 hours

**ADMINISTRATIVE LEAVE**

**Section 22. ADMINISTRATIVE LEAVE**

Fire Fighters may be granted Administrative Leave based on participation in a City or departmental program that awards Administrative Leave to program participants or for any purpose authorized by the Fire Chief.

**Section 23. PREEMPTION**

Fire Fighters shall be entitled to the Leave provisions in this Article and Department policy as of the effective date of this Agreement. Such entitlements shall not be changed during the term of this Agreement and shall preempt any inconsistent Leave provisions under Chapters 141, 142, and 143 of the Texas Local Government Code. No change to or adoption of any state statute after the effective date of this Agreement shall alter or add to the terms of this Agreement in respect to Leave. Additionally, such entitlements shall totally preempt Council Resolution No. 20130822-018 in its entirety, and that portion of Council Resolution No. 20130620-015 amending City of Austin Personnel Policies Chapter A, Section III.B.1.c.(2) Parental Leave Benefit. The remainder of Council Resolution No. 20130620-015 is not preempted by this Article.

**ARTICLE 13  
PERSONNEL DEPLOYMENT**

**Section 1. TRADING ASSIGNMENTS**

Two Fire Fighters of the same rank may trade or “swap” assignments in accordance with this procedure. An agreed swap must have the approval of the appropriate Battalion Chief and the next level supervisor. The swap must be made voluntarily by each Fire Fighter. No Fire Fighter may enter into a swap if he/she is high enough on a promotional eligibility list to make his/her promotion from that list likely. There shall be no swaps involving more than two Fire Fighters. If the swap is between Combat Operations and a Staff Section, it must be with the most senior member of that Staff Section who desires to return to Combat Operations. A member who swaps into a Staff assignment is required to remain in that assignment as described in Section 2.D. Any manipulation of the swap procedure by any Fire Fighter or supervisor shall be grounds to disallow the proposed swap.

**Section 2. POLICY ON TRANSFERS TO OPEN ASSIGNMENTS**

**A. “Open Assignment” Defined**

For purposes of this Agreement only, an “open assignment” is a Civil Service position of any rank from Fire Fighter through Battalion Chief which has been vacated for any reason, including but not limited to retirement, resignation, termination, promotion, or transfer. New positions authorized by the City Council are also “open assignments.”

**B. Policy**

The Fire Chief will issue a General Order that will include provisions establishing posting parameters, including posting of open assignments within ten (10) days after they occur; a minimum of ten (10) days posting period; providing for an application and selection process; and providing written feedback to all applicants who request same. Once an assignment has been posted, it will remain posted on the Fire Department intranet until filled.

**C. No selection for open assignment**

If no selection is made for an open assignment advertised by a Battalion Chief, the Fire Chief may, at his/her discretion:

1. Leave the assignment open;
2. Fill the assignment with a staff person, if possible;
3. Fill the assignment by promotion;
4. Fill the assignment with a recent academy graduate (if the opening is an assignment in the Fire Fighter rank); or

5. Fill the assignment by transfer.

**D. Two-Year Stay In Staff**

1. Fire Fighters who promote or transfer to a staff assignment (40 hours per week) or any other assignment for which assignment pay is received (except bilingual pay) shall ordinarily stay in the assignment for a minimum of two years.

2. A Fire Fighter who is nearing completion of a staff assignment may apply for an open assignment in Operations. If accepted for such assignment, the Fire Fighter will be placed in that open assignment as soon as operational needs of the Department allow, but no sooner than the pay period in which the Fire Fighter's two year staff assignment anniversary date occurs. The assignment will be reserved for the accepted Fire Fighter until such time that he or she is released from the staff assignment. If the Fire Fighter is not selected for the requested position, the Fire Fighter will, as soon as he/she has served 24 months in the staff assignment and as soon as operational needs allow, be placed in another vacant Operations position.

**E. Transfer Procedures**

The procedures to be followed in transferring Fire Fighters to "open assignments" are contained in the General Orders. If a Fire Fighter can document that he/she has applied for at least three open positions and has failed to be awarded any of them, the Fire Fighter may request that his/her transfer request be elevated to the Division Chief level. The Division Chief will investigate the situation and will assist the Fire Fighter in placement to an open position as soon as operational needs of the Department allow.

**F. Awarded Positions**

Once a position has been awarded to a Fire Fighter, the Fire Fighter may not be removed from that position without a documented business need. A position occupied for six months will become an awarded position.

**Section 3. SHIFT TRADING PRIVILEGES**

- A. During the term of this Agreement, the Department shall have a policy providing for the trading of shifts/time, including Kelly shifts, among Fire Fighters. The policy shall provide flexibility for Fire Fighters to make such trades, provided that the trades do not compromise the integrity of the firefighting company or the business needs of the Department.

- B. The City has agreed to facilitate the Fire Fighters' shift exchanges where the Fire Fighters do so at their sole option and for their convenience. The City offers Fire Fighters no incentive, encouragement, benefit, or promise of reward or advantage in connection with providing this option. The City retains the right to make any changes in policies or practices which the City Attorney deems necessary to comply with State and Federal overtime laws and regulations, including but not limited to 29 C.F.R. §§ 553.31 and 553.227, governing the City's involvement, regulation, or approval of firefighter participation in this voluntary option.

C. During the term of this agreement, a Fire Fighter will be allowed to take up to five (5) one-way trades per calendar year.

**Section 4. MATERNITY ALTERNATIVE DUTY STATUS AND RECOVERY FROM CHILDBIRTH**

A. For safety purposes, Fire Fighters who learn that they are pregnant may report their condition as soon as practical to their immediate supervisor and report for Alternative Duty. Alternative Duty may be worked during the term of the pregnancy. The Fire Chief, on a case-by-case basis, may authorize post-delivery Alternative Duty status.

B. The City will provide a sworn liaison to assist Fire Fighters during the transition to alternative duty after they have learned they are pregnant as noted in the above Section 4.A, and to assist in the transition and or accommodation of reh1m to duty, after childbirth in accordance with city policies and state and federal law.

**Section 5. DISCRETION OF FIRE CHIEF**

Nothing in this Article shall be construed as limiting the Fire Chief's authority to determine personnel assignments.



## **ARTICLE 14 HOURS OF WORK**

### **Section 1. EMPLOYEES WORKING 53-HOUR WEEKS**

Employees who work a 53-hour week shall work one twenty-four (24) hour work shift and forty-eight (48) hours off duty. This shift schedule results in an average of fifty-three (53) hours per week. This shall be accomplished by scheduling eighteen (18) twenty-four (24) hour regular shifts and one (1) twenty-four (24) hour Kelly shift.

During the last 30 days of the term of this Agreement, or earlier at the Fire Chief's discretion, the shift schedule shall be modified to include two additional Kelly shifts per year.

After the shift schedule is modified to include two additional Kelly shifts per year, the Fire Chief shall have discretion to reduce the work week by an additional 1.6 hours at any time during the life of this Agreement.

### **Section 2. EMPLOYEES WORKING 40-HOUR WEEKS**

The basic work week shall be forty (40) hours per week for all Fire Fighters who are not assigned to work a 53-hour week.

### **Section 3. DISPATCH SCHEDULE**

The Dispatch schedule will be a 40-hour work week that is set up to operate on a modified 24/72 work cycle.

### **Section 4. CHANGES BY MUTUAL AGREEMENT**

By mutual agreement, the Fire Chief and the Association's Executive Board may agree to change the hours of work set out in this Article.

**ARTICLE 15  
OVERTIME**

**Section 1. OVERTIME RATES**

A. Except as may otherwise be specified in this Agreement, all Fire Fighters shall be compensated at the overtime rate of one and one-half (1.5) times the Fire Fighter's regular rate for all hours worked over the applicable overtime threshold prescribed by the FLSA. For purposes of computing overtime, all approved paid leave time, except sick leave and regular vacation leave, shall be calculated as hours worked.

B. "Regular rate" or "regular rate of pay" for the calculation of overtime shall have the meaning prescribed by the FLSA (in accordance with 29 CFR Sections 778.107 through 778.109 and 778.113).

C. Overtime worked at the beginning or end of a Fire Fighter's shift shall be to the nearest quarter hour for the actual time worked. Overtime that occurs as the result of being called back for duty and is not a continuation of the Fire Fighter's shift, will be paid to the nearest quarter hour for the actual time worked with a minimum of two (2) hours provided.

**Section 2. OVERTIME RULES**

A. During the term of this Agreement, the Department shall have a policy regarding overtime work in the Operations Division. The policy shall provide for constant staffing of the Operations Division. The City agrees to a consistent and predictable application of its policy regarding overtime, provided that the application of the policy does not compromise the integrity of the firefighting company or the business needs of the Department. Overtime will be paid, when necessary, to maintain staffing levels established by the Fire Department's staffing policies.

B. Overtime shall be paid consistent with Section 1 of this Article to an individual for hours worked during his/her regularly assigned Kelly Shift. Fire Fighters will not be considered for overtime while working a Kelly trade.

C. Fire Fighters on their Kelly shift who have placed their name on the overtime Signup list will be offered overtime first and generally be released last. Within this group, Fire Fighters with the lowest total "personnel shortage" overtime hours year to date, regardless of rank, will be offered overtime first. If, after utilizing this process, overtime is still necessary, additional members will be selected by a process that does not compromise the integrity of the firefighting company.

**Section 3. ON CALL STATUS**

The Fire Chief shall continue a program of providing additional pay for Fire Fighters who are required to be on call while off duty, which will be consistent with the Department's On Call

Policy as it currently exists, or as amended in the future.

**Section 4. FLSA EXEMPTION**

It is understood and agreed that the City is entitled to the partial exemption under 7(k) of the FLSA (29 U.S.C. §207(k)) and that the Fire Fighters assigned to the Operations Division meet the test for the 7(k) (also referred to as the 207k) partial exemption.

**ARTICLE 16  
PROMOTIONS, DEMOTIONS, & REINSTATEMENTS**

**PROMOTIONS**

**Section 1. PURPOSE AND OBJECTIVE**

The Association hereby agrees to the deviations from Chapter 143 promotion procedures specifically authorized by this Article. Except as allowed by this Article, the City will comply with the promotion procedures specified in Chapter 143, and retains all prerogatives granted to it by the statutory procedures.

**Section 2. CHALLENGES TO THE PROMOTIONAL PROCESS**

In the event of a lawsuit or administrative claim asserted against the Association based on an allegation that a deviation by the City from Chapter 143 promotion procedures authorized by this Article violates a state or federal law, the City will reimburse the Association for sums paid as damages in such lawsuit or settlement, and for sums paid as attorney's fees and court costs in defending such lawsuit or claim, subject to each of the following required conditions:

1. The Association will fully and vigorously defend the claim on the merits.
2. The City has the right to approve the amount of any settlement of any such claim against the Association.
3. The Association will not assert a claim against the City based on an action by the City that was required by the terms of this Article.
4. Reimbursement for amounts paid as damages or settlement will be made after resolution of the lawsuit by either final judgment in court (including appeals), or settlement approved by the City.
5. Reimbursement for attorney's fees and costs will be ongoing as such fees and costs are paid by the Association. The City will reimburse the Association for attorney's fees at the actual hourly rate normally paid by the Association to the attorney, and in any event no greater than the average hourly rate paid by the City for outside counsel during the preceding fiscal year.
6. The City's total liability for damages and/or fees and costs under this Section will not exceed one hundred fifty thousand (\$150,000.00) dollars for the term of this Agreement, regardless of the number or size of claims asserted against the Association.

### **Section 3. PROMOTIONAL EXAMINATIONS – GENERAL PROVISIONS**

#### **A. Scheduled Examination Dates & Rescheduling Exams**

Prior to the effective date of this Agreement, the Chief will establish an examination schedule for all tested ranks and publish the schedule as Appendix B to this Agreement. No promotional list shall extend longer than six (6) months after the expiration of the Agreement. Scheduled promotional examinations shall be held as provided in Appendix B of this Agreement unless the prior eligibility list is earlier exhausted, in which case the provisions of subsection F apply. The Department may require members to sign up to take the examination according to the terms specified in the notice of the exam. The actual date of the exam may be rescheduled for up to sixty (60) days after the original date in the event of circumstances beyond the City's control, including but not limited to extraordinary weather events or other emergencies. In the event of a rescheduling, no further notice of the examination is required other than ten (10) days' notice of the new time, place, and date of the rescheduled examination, notwithstanding Local Government Code section 143.029. Only members eligible as of the original posted date of the examination shall be eligible to sign up for and take an examination rescheduled under this Subsection.

#### **B. Effective Date of Promotions, Back Pay Liability**

With the exception of the initial scheduled examination dates for each rank, meeting the scheduled examination dates provided for in Appendix B or the re-scheduled date of an exam as allowed in Subsection A precludes any liability for back pay for that position, provided that the promotion occurs within sixty (60) days after the scheduled examination date or within sixty (60) days after the date of an un-scheduled examination under Subsection F. A promotional delay beyond the sixty (60) days caused by an Assessment Center appeal filed by any promotional candidate pursuant to Section 14.A.2 precludes any liability for back pay for that position. The right to back pay shall not be affected as to the initial examinations given under the schedule in Appendix B. The right to a retroactive promotion date and seniority shall not be affected as to any examination given during the life of this Agreement.

#### **C. Eligibility**

Subject to Subsection A above and Section 4 below, all candidates for promotion must meet the requirements of Local Government Code §§143.028 and 143.030.

#### **D. Pass Not Promote Points**

If a Fire Fighter takes a promotional exam for the rank of fire specialist after December 20, 2009, including an examination given during a period in which no collective bargaining agreement is in effect, and passes but does not promote from the resulting eligibility list, the Fire Fighter will receive one (1) point on his/her written exam raw score (after the application of the criteria for breaking ties) in future promotional examinations for the same rank. A maximum of two (2) PNP points may be awarded.

**E. Seniority Points**

Except as modified by this subsection, nothing in this Agreement preempts Local Government Code Chapter 143.033. If the candidate receives a passing written examination score, seniority points shall be added to the candidate's composite score on the testing battery.

**F. Unscheduled Tests Necessitated by Exhausted Eligibility Lists**

If a promotional eligibility list for a rank is exhausted more than 90 days prior to the next scheduled promotional exam for that rank, the City may conduct an un-scheduled promotional exam for that rank as follows:

1. The date of the un-scheduled written examination and the list of source materials for the examination shall be posted in accordance with the provisions of Local Government Code Chapter 143.

2. The un-scheduled exam, including any Assessment Center, will be conducted in accordance with the requirements of this Article.

3. The resulting Eligibility List will be created in accordance with the requirements of this Article and will last for twelve (12) to twenty-four (24) months from the date of the written examination. The duration of the list shall be specified in the posting for the written promotional examination.

4. The date of the next scheduled exam will be during the month which is 12-24 months after the date of the un-scheduled exam, if the new exam date would occur before the expiration of this Agreement.

5. If the new date for the scheduled exam is less than one year prior to the expiration of this Agreement, the Eligibility List created as a result of the exam will expire six (6) months after the Agreement's termination date.

**G. Transition Promotional Process**

The promotional process for the rank of Captain commenced but not completed prior to the effective date of this Agreement may be continued under the procedures in effect immediately before the effective date of this Agreement (including applicable provisions of Chapter 143). The eligibility list for such process shall be effective for twenty-four (24) months from the date of the written examination. Fire fighters promoted under such process shall be deemed to have been promoted in compliance with this Article.

**Section 4. PROMOTIONAL PROCESS FOR CAPTAINS AND BATTALION CHIEFS**

**A. Structure of Process**

1. Vacant positions in the ranks of Captain and Battalion Chief shall be filled from an eligibility list created by a promotional process consisting of a Written Examination and an Assessment Center conducted in accordance with this Article.

2. The Fire Chief, with the assistance of the Promotional Process Consultant (third party vendor), will develop and implement the promotional process which will include a written test and an Assessment Center, covering subject matters as determined by the Chief.

3. The written examination score will be at least fifty percent (50%) of the composite score unless the City's Promotional Process Consultant identifies a psychometric reason for weighting the written examination score at less than fifty percent (50%) of the composite score. If the Consultant identifies such a psychometric reason, the change to the weighting of the written examination score shall not be subject to challenge by the Association, either through a contract grievance or in court, unless there is evidence that the reason was obtained by intentional misconduct or clerical error.

4. The City's Promotional Process Consultant will certify that that the promotional process is valid in accordance with accepted professional standards, such as the Society for Industrial and Organizational Psychology's Principles for the Validation and Use of Personnel Selection Procedures (SIOPS). This certification, a copy of which will be provided to the Association, shall serve as conclusive evidence of promotional process validity, and such validity shall not be subject to challenge by the Association, either through a contract grievance or in court, unless there is evidence that the certification was obtained by intentional misconduct or clerical error.

5. The Association retains the ability to file a grievance contesting whether the City has complied with the provisions of this Article but will not otherwise bring or support any legal action challenging the City's implementation of this Article. This does not preclude the Association from bringing suit or seeking to intervene in litigation for the sole purpose of defending a promotional process implemented in accordance with this Article, nor does it preclude the City from contesting such suit or intervention.

**B. Written Examinations**

1. The date of the Written Examination and the list of source materials for the examination shall be posted in accordance with the provisions of Local Government Code Chapter 143.

2. The Promotional Process Consultant will determine whether or not to have a passing cut off score as a condition of proceeding to the Assessment Center portion of the examination.

## **C. Assessment Centers**

### **1. Parties Devising & Conducting Assessment Centers**

(a) The Assessment Center process shall be administered by a Promotional Process Consultant (third party vendor) designated in accordance with this Article. The third party vendor shall be a professional vendor who is not a current or former employee of the City of Austin.

(b) The assessments themselves, which will be video recorded, shall be performed by an Assessment Center Panel consisting of three (3) members designated in accordance with this Article. An individual candidate's assessment will not be conducted in the presence of other promotional candidates and may be given at different times from other candidates.

### **2. Oversight Committee**

(a) An Oversight Committee ("OC") shall be appointed in accordance with this Article and shall have the responsibilities set forth below. The purpose of the OC is to identify the criteria (scope of work) to be used to select the third party vendor, and to assist the purchasing department in the development of the Request for Proposal (RFP). The OC will endeavor to reach consensus on a recommendation on the scope of work, the development of the RFP, and the selection of the vendor. The failure to reach consensus shall not be a grievable matter and shall not delay the selection process. The OC shall evaluate proposals (which may include interviewing applicants and checking references), and score proposals pursuant to purchasing department procedures which include a recommendation for its choice of vendors to the Fire Chief. The Association may appoint two voting members to the OC. The remaining three voting members of the OC will be appointed by the Fire Chief and the Director of Civil Service. The Director of Civil Service may also add two additional non-voting members from persons in departments that regularly are a part of the RFP process. The Director of Civil Service, in consultation with the Fire Chief, will draft the Request for Proposal and participate with the OC in all phases of the process. No employee who is then a candidate for promotion to Lieutenant, Captain or Battalion Chief shall serve on the Oversight Committee.

(b) The third party vendor (once awarded), upon request of two or more members of the OC, will meet with them and discuss the methods used in developing the testing processes.

### **3. Assessment Process Panel**

The Assessment Process Panel (the "Panel") shall consist of three (3) members. The Promotional Process Consultant shall be responsible for the recruiting, training, and selection of the Panel members. None of the Panel members may be current, former, or retired employees of the City of Austin. None of the Panel members may have any relationship with any candidate participating in the Assessment Center. All members of the Panel shall have at least one (1) year of experience, within the last five (5) years immediately preceding the



Assessment Center, as a fire service professional in the same or higher rank being assessed in a fire department having a minimum staffed strength of four hundred (400) fully paid career fire fighters. The same Panel of three (3) members will assess the entire candidate pool for any given scenario or discrete portion of the assessment center. This provision shall not apply to any candidate taking a promotional examination by virtue of rights granted under USERRA.

#### **4. Posting and Orientation**

The date(s) of the Assessment Center shall be posted at least ninety (90) days prior to the date(s) specified for the Assessment Center. If the date(s) of the Assessment Center are postponed, the new date(s) shall be posted at least ten (10) days prior to the new date(s). A brief description of the criteria and subject areas for the Assessment Center will be posted at least ninety (90) days prior to the date of the Assessment Center. All candidates will be invited to attend a classroom orientation concerning the Assessment Center process. The invitation will be posted on FireNet at least ten (10) days prior to the date of the orientation.

#### **5. Debriefing Opportunity for Candidates**

After the Assessment Center process has been completed, for each candidate who files a request there will be a process for a voluntary, individual debriefing, at which time the candidate will receive information concerning his or her scores and the weight of the components of the testing process. Notwithstanding Section 4.C.6 below, upon request a Fire Fighter may review the video of his/her own assessment center as a part of the debriefing process.

#### **6. Confidentiality of Assessment Centers**

The City and the Association agree that promotional Assessment Centers conducted in accordance with this Article, including any video recording of the assessments, are a scored component part of a Promotional Examination, used in like manner as the scored written examination, and are therefore confidential pursuant to Local Government Code Section 143.032(h).

#### **D. Composite Score from Written Examination and Assessment Center**

A candidate's total score resulting from the promotional procedure shall be based on a composite of scores combining the final Written Examination and the Assessment Center scores, as determined by the Promotional Process Consultant. The total credit for all combined exam components will be 100% of the candidate's total score and will be allocated as part of the test design, subject to the requirements of Section 4.A.3. The maximum number of points available for any single examination component will be determined through the test design, with the promotional consultant, which may include the job analysis process with Subject Matter Expert (SME) input. The allocation between the two procedures will be published as soon as practicable prior to the date of the written examination.

## **E. Creation of Eligibility List**

1. Candidates who successfully complete all of the Assessment Center testing processes will be placed on an eligibility list in rank composite score order. A final composite score list will be issued by the Promotional Process Consultant for each Assessment Center completed. The Director of Civil Service shall produce the eligibility list from which vacant positions shall be filled in rank order. The eligibility list shall rank all candidates based on the candidate's composite scores from the Written Examination and the Assessment Center, together with any seniority points.

2. If, after the expiration of the deadline to file an appeal, no appeals have been filed, the Civil Service Office shall post the eligibility list and the list shall become effective on the date of the written exam. If, during the time to file an appeal, an appeal has been filed, the Civil Service Office shall then submit the list for certification to the Civil Service Commission.

3. If, for any reason, an effective eligibility list needs to be corrected, the Civil Service Office shall correct the list and submit the corrected list for certification to the Civil Service Commission. If the Commission chooses to certify a corrected list, the effective date of the list shall remain the same as the original effective date. In the event of a clerical or electronic error in computing the test score, the expiration date of any promotional examination eligibility list may be amended by written agreement between the President of the Association and the City Manager.

## **Section 5. LIFE OF ELIGIBILITY LISTS CREATED UNDER THIS AGREEMENT**

Notwithstanding the provisions of Local Government Code §143.036, the life of each promotional eligibility list created during the life of this Agreement will be determined by the Chief, but in no event shall be less than twelve (12) months or more than twenty-four (24) months from the date of the written examination, notwithstanding any pending disputes, appeals or litigation concerning an applicant's score or right to promotion. The duration of the list shall be specified in the posting for the written promotional examination.

## **Section 6. EXISTING PROMOTIONAL ELIGIBILITY LISTS**

Promotional eligibility lists that exist on the effective date of this Agreement will expire on the dates specified by the Chief in the postings for the examinations. Promotional eligibility lists that exist on the effective date of this Agreement will be used to fill promotional vacancies in the ranks for which they were created until they expire. Division Chiefs promoted from Civil Service promotional lists may not be demoted involuntarily except in accordance with Local Government Code §143.054 or §143.085.

## **Section 7. ELIGIBILITY TO PROMOTE TO FIRE SPECIALIST**

Fire Fighters wishing to promote to the rank of Fire Specialist may take the promotional exam if they meet the qualifications as required under Section 143.036 of the Local

Government Code. Provided, however, that the Fire Fighter must complete Relief Driver training and have an approved Relief Driver certification at the time of promotion. A Fire Fighter who does not have the required Relief Driver certification at the time of the promotion will be bypassed, and this bypass will be considered a valid reason under Local Government Code §143.036(f). A Fire Fighter who is bypassed for this reason will be returned to their place on the eligibility list, and all other provisions of Section 143.036 of the Local Government Code shall apply. All Fire Fighters will be provided an opportunity to take the Relief Driver course prior to the date they become eligible to take the Fire Specialist promotional examination.

## **Section 8. UNLAWFUL IMPACT**

The City agrees that it will not change the promotional process for any rank, once adopted for a promotional cycle, unless a court determines that the promotional process is unlawful. If the Department of Justice or the EEOC/TWC determines that reasonable cause exists to believe that the process is unlawful, the City and the Association will engage in informal discussions with the DOJ or the EEOC/TWC to determine whether to implement any changes or adjustments acceptable to the DOJ or the EEOC/TWC which otherwise comply with applicable law. Prior to any changes to the process being implemented, the Association must agree to such changes, unless the changes are ordered by a court.

## **Section 9. PROMOTIONS TO DIVISION CHIEF AND ASSISTANT CHIEF**

### **A. Promotions by Appointment Allowed; Appointment Procedure**

1. Except as herein specified, promotions to the rank of Division Chief and Assistant Chief will be made by use of the appointment procedure specified in Local Government Code §§143.014(b) & (e)-(h), except that appointee§. must hold the rank of Captain or above. Fire Fighters appointed to such positions must have all the qualifications specified and will have all rights and remedies afforded them under §143.014, including but not limited to the appeal rights provided in §§143.014(h).

2. During the term of this Agreement, the total number of Division Chiefs and Assistant Chiefs shall be established by the City Council through classification ordinances. The total number of appointed Division Chiefs and Assistant Chiefs may not exceed ten (10). Beginning on the date the Fire Chief modifies the shift schedule to include two additional Kelly shifts per year under Article 14, Section 1, the total number of appointed Division Chiefs and Assistant Chiefs may not exceed eleven (11). If, at any time, the Fire Chief removes either of the two additional Kelly shifts per year under Article 14, Section 1, then effective on the date of that change, the total number of appointed Division Chiefs and Assistant Chiefs may not exceed ten (10). Beginning on the date the Fire Chief modifies the shift schedule to reduce the work week by an additional 1.6 hours under Article 14, Section 1, the total number of appointed Division Chiefs and Assistant Chiefs may not exceed fifteen (15). If, at any time, the Fire Chief removes any of the additional 1.6-hour work week reduction under Article 14, Section 1, then effective on the date of that change, the total number of appointed Division Chiefs and Assistant Chiefs may not exceed eleven (11). Notwithstanding Chapter 143, this subsection will survive the expiration of this Agreement and remain effective until expressly superseded in a future agreement between the

parties under Chapter 174.

## **B. Promotions by Appointment; When Allowed**

1. If a vacancy occurs at the rank of Division Chief or Assistant Chief, the Fire Chief shall have a window of forty-five (45) days, from the date of the vacancy, to fill the vacancy by appointment pursuant to Section 9.A(l) of this Article. No Fire Fighter shall acquire an equitable property right in that vacant position or a primary right to a promotion unless the vacancy remains after the expiration of the forty-five (45) day window. For purposes of this Subsection, a vacancy occurs when an existing Division Chief or Assistant Chief position is vacated pursuant to LGC Chapter 143.036(a), or when a newly created Division Chief or Assistant Chief position is established by ordinance. This subsection shall not affect the status of individuals on existing promotional eligibility lists, other than the ranks of Assistant Chief and Division Chief, on the date a vacancy occurs as provided in Chapter 143.

2. The Fire Chief may not fill the vacancy by appointment unless:

- (a) The Chief makes the appointment effective within the forty-five (45) day window, and
- (b) On the date of the appointment, the total number of appointed Fire Fighters (excluding the Fire Fighter to be newly appointed) in the combined ranks of Division Chief and Assistant Chief is fewer than ten (10).
- (c) If the Chief does not fill the vacancy by appointment within 45 days, Sections 143.036(a) and 143.036(e) shall apply for purposes of determining when the vacancy occurred and the timelines for filling that vacancy.

3. If a vacancy is not filled by appointment, the vacancy shall be filled in accordance with the promotional process for Captains & Battalion Chiefs set forth in this Article.

4. The forty-five (45) day window provided by this Subsection shall be excluded in determining whether a promotional candidate is entitled to back pay based on the date of his/her promotion.

## **C. Qualifying Criteria**

1. The Fire Chief shall establish, in writing, required qualifying criteria for appointed positions, which are in addition to the qualifications listed in Local Government Code §143.014, and may include management experience, education, training, and special experience.

2. The Fire Chief may not make an appointment until the required qualifying criteria are established as prescribed by this Subsection.

3. The Fire Chief may remove without cause a person appointed under this Section, subject to the person's rights under Local Government Code §143.014(g).

#### **Section 10. SHIFT COMMANDER ASSIGNMENT**

The Fire Department will maintain a minimum of three (3) Shift Commander assignments which will be filled by a Division Chief with a minimum of two (2) years of experience in Operations in the rank of Battalion Chief, or who attained the rank of Division Chief through competitive examination. Appointments to the Shift Commander assignment in this manner will extend beyond the expiration date of this Agreement for six (6) months or until every promotional list created under this Agreement has expired, whichever is later. This provision may also be extended as a result of any extension of this Agreement under Article 30.

#### **WRITTEN PROMOTIONAL EXAMINATION APPEAL PROCESS**

#### **Section 11. APPLICATION OF THIS PROCESS**

The appeal process specified in this Article applies to appeals by individual candidates regarding the grading of their written promotional examinations. Any challenges to the administration of a written promotional examination shall be made in accordance with the provisions of Chapter 143 of the Texas Local Government Code.

#### **Section 12. APPEALS CRITERIA**

A. In appeals from written promotion examinations, criteria will be applied to judge the merits of an appeal. The criteria are established in this Section but may be modified by the Appeals Criteria Committee ("ACC") as provided in this Article. In judging the merits of an appeal, the Employee Review Committee ("ERC") described in this Article shall apply only the criteria listed in this section, unless the ACC has modified the criteria, in which case the modified criteria will be used by the ERC. The Civil Service Commission must apply the criteria as well but may add any other criteria it deems relevant to judge the merits of an appeal. All appeals must be on the form prescribed by the Director of Civil Service and must meet the following criteria for the appeal to be submitted to the Civil Service Commission:

B. The form must be completed in the Fire Fighter's own handwriting, must be legible and must contain the following:

- 1) Fire Fighter's name and TXFIR number;
- 2) Name of the exam;
- 3) Question number(s) being appealed;

- 4) The reason(s) why the question or exam is being appealed; and
  - 5) The date.
- C. The form must be completed so that it challenges a specific question or questions.
- D. The form must state or list clearly the specific reason(s) for the appeal and must refer only to the approved source material list used to formulate the questions.
- E. All support materials cited in or attached to the appeal form must come only from the approved source material list.
- F. Unless the criteria for appeals are altered or modified by the Appeals Criteria Committee, appeals must be based on at least one of the following reasons:
- 1) There is more than one correct answer.
  - 2) There are no correct answers.
  - 3) The question is not clearly stated or there is an error so that the correct answer could not be determined.
  - 4) The question is not from the listed source material.
  - 5) The correct answer scored is not the correct answer.
  - 6) The context of the source material was not used properly in the question or answer.
- G. The following contains examples of appeals that will not be submitted to the Civil Service Commission for its review:
- 1) Punctuation marks are missing or incorrect.
  - 2) The exact wording in the source materials was not used.
  - 3) The question is not job relevant. (All materials included on the approved source materials list are deemed job relevant.)

### **Section 13. APPEALS CRITERIA COMMITTEE**

#### **A. Role of Appeals Criteria Committee**

An Appeals Criteria Committee (ACC) shall be appointed to review and modify, as necessary, the criteria for what may be appealed to the Civil Service Commission following

all written promotional examinations. The ACC shall review the appeal criteria contained in this Agreement following the first written examination appeal conducted under this Agreement to determine whether the criteria should be modified. Thereafter, the ACC shall meet to review the criteria prior to each examination appeal process.

**B. Appointment of Members**

The ACC, composed of seven (7) individuals, shall be appointed as follows:

1. Three (3) members appointed by the Association, each having taken at least one (1) promotional exam;
2. Two (2) members appointed by the Fire Chief, each having taken at least one (1) promotional exam;
3. One (1) member appointed by the Director of Civil Service; and
4. One (1) member appointed by the Chair of the Civil Service Commission.

**C. Approval of Criteria**

A simple majority of the ACC shall approve the criteria. The criteria approved by the ACC shall not be appealable to either the Civil Service Commission or to the district court.

**Section 14. APPEAL PROCESS AFTER EXAMINATION**

**A. Appeal**

**1. Written Exam.** Any Fire Fighter who has taken a written promotional examination may, within five (5) City of Austin business days of posting of the written promotional examination results, review his/her examination results. In a process established by the Director of Civil Service, each candidate who has taken a written promotional examination may have a time period to review his/her examination and write and submit an appeal. A candidate may submit his/her written appeal at any time before the close of business on the fifth (5th) City of Austin business day after the posting of the written promotional examination results. Any appeal must be based on the appeal criteria as provided in this Agreement or as altered or modified by the Appeals Criteria Committee. Each candidate will receive a copy of the Civil Service Director's process at the conclusion of his/her examination.

**2. Assessment Center.** A Fire Fighter who claims that a scoring error occurred in his/her Assessment may appeal to the vendor only, using a second review process as established and overseen by the vendor. The decision of the vendor regarding appeals using the second review process shall be final and binding. This Agreement does not a) require the vendor to accept assessment center appeals; or b) require the City to obligate the vendor to accept assessment center appeals. However, whether the vendor accepts such appeals will be one factor,

not in itself determinative, considered in selecting the vendor. If a vendor agrees to accept Assessment Center appeals, the Director of Civil Service shall establish by policy the timelines for such appeals. There shall be no other appeal from the results of an Assessment Center process unless an individual Fire Fighter alleges that the results of the process were tainted by fraud, substantive integral compromise or material manipulation on the part of the City, the Promotional Process Consultant or the Assessment Center Evaluation Board. If such allegation is made, the Fire Fighter may appeal only to the Civil Service Commission. The Commission's decision on such appeal may be overturned only if it was procured by fraud, collusion or other unlawful means, or it is not supported by substantial evidence as judged from the administrative record made before the Commission.

**B. Review of Examination**

The Director of Civil Service will be responsible for providing dates, times, and locations for members to sign up to review their examinations. Each Fire Fighter will be responsible for signing up for a specific time period to review his/her examination. The Fire Fighter will be permitted to stay beyond his/her scheduled time period, if needed, to complete his/her review and to write and submit an appeal. Copies of source materials will be provided for a Fire Fighter's use during this review period only if the Fire Fighter specifically requested the materials on the Sign Up form. During the period designated for the Fire Fighter to review his/her examination, the Fire Fighter may bring self-prepared materials such as notes, flash cards, or outlines. The only published materials a Fire Fighter may bring are the source materials upon which the examination was based.

**Section 15. REVIEW BY EMPLOYEE REVIEW COMMITTEE**

**A. Role of ERC**

An Employee Review Committee (ERC) will be appointed to screen written examination appeals for the ranks of Fire Fighter through Battalion Chief to the Civil Service Commission, applying the criteria described in this Article to determine if any appeals should not be advanced to the Civil Service Commission because they do not meet the criteria.

**B. Appointment of ERC Members**

The ERC shall be comprised of five (5) members, as follows:

1. For promotional examinations for Specialist rank:
  - (a) Four (4) Specialists or higher rank, two (2) each appointed by the Association and the Fire Chief; and
  - (b) One (1) non-voting member appointed by the Human Resources Department.
2. For promotional examinations for Lieutenant rank:



- (a) Four (4) Lieutenants or higher rank, two (2) each appointed by the Association and the Fire Chief; and
  - (b) One (1) non-voting member appointed by the Human Resources Department.
- 3. For promotional examinations for Captain rank:
  - (a) Four (4) Captains or higher rank, two (2) each appointed by the Association and the Fire Chief; and
  - (b) One (1) non-voting member appointed by the Human Resources Department.
- 4. For promotional examinations for Battalion Chief rank:
  - (a) Four (4) Battalion Chiefs or higher rank two (2) each appointed by the Association and the Fire Chief; and
  - (b) One (1) non-voting member appointed by the Human Resources Department.

### **C. Conflicts of Interest**

To prevent conflicts of interest, a member of the ERC must not have a personal relationship or conflict of interest with any candidate whose appeal will come before them. The Fire Chief and the Association President shall appoint alternates to the ERC for each rank, who shall substitute for a member of the ERC who cannot review the appeal of a candidate because of a personal relationship or conflict of interest. The Fire Chief shall determine whether such a personal relationship or conflict exists. In a process established by the Director of Civil Service, each candidate who has taken a written promotional examination may appear before the ERC and present information on each question appealed. Only source material may be used to support the candidate's appeal.

### **D. Decision on Appeals**

Appeals may be denied advancement from the ERC to the Civil Service Commission by a vote of a simple majority of the voting members on the ERC. The ERC will make one of the following decisions:

- 1. The appeal meets the applicable criteria and should be passed on to the Civil Service Commission. Any such decision will be written and include the ERC's view regarding the merits of the appeal.
- 2. The appeal does not meet the applicable criteria and should not be passed on to the Civil Service Commission.

### **E. Appeal of Commission Decisions**

There will be no State District Court appeal of the ERC's examination appeal determinations or from the Civil Service Commission's written examination appeal decisions, except an appeal alleging the City's failure to validate the written examination, fraud, collusion, or unlawful means.

F. Nothing in this Article is to be construed as limiting a Fire Fighter's right to speak and present argument in support of or against an appeal that has been advanced to the Civil Service Commission.

## **DEMOTION AND REINSTATEMENT**

### **Section 16. DEMOTIONS DUE TO RETURN FROM MILITARY LEAVE OF ABSENCE**

In accordance with the provisions of Local Government Code §143.072, when a Fire Fighter returns from a military leave of absence, is reinstated to active duty in the department and is restored to his/her former position, thus creating a surplus in his/her rank, the last person promoted to that rank will be demoted and placed on the reinstatement list for that rank.

### **Section 17. REINSTATEMENT LIST**

#### **A. Placement on List**

Any person placed on the reinstatement list (and there shall be only one list for each rank) by virtue of demotion shall remain on the list indefinitely. This section shall apply to all demotions other than voluntary demotions and those made for discipline on civil service charges, which circumstances do not give rise to any right to be placed on a reinstatement list. Persons on the list shall be entitled to reinstatement in the reverse order of demotion. This results in the last person demoted being the first person reinstated. Reinstatements must occur from the reinstatement list before any promotions from a promotional eligibility list. Until such reinstatements occur and the reinstatement list is exhausted, there shall be no "vacancy" created for the purpose of any promotional eligibility list.

#### **B. Promotional Eligibility after Reinstatement**

Once reinstated, a Fire Fighter's eligibility for promotion shall be determined from cumulative time in rank, rather than continuous time in rank. All of the current promotional lists will be returned to their original list duration once this agreement becomes effective.

#### **C. Total Preemption**

This Section alone shall control any right to reinstatement from the reinstatement list, and shall totally preempt all provisions of Chapter 143, whether or not expressly inconsistent with this provision.

## **OTHER PROVISIONS**

### **Section 18. VACANCY CREATED BY EXTENDED ABSENCE**

A. Notwithstanding any provision in this Article or any provision in Local Government Code Chapter 143, a continuous absence from duty for more than six (6) months because of illness, injury or other authorized leave shall create a vacancy in the affected Fire Fighter's rank but shall not expand the size of the classified service.

B. Authorized leave that is anticipated to last for more than six (6) continuous months at the time the leave is approved by the Chief, creates a vacancy in the affected Fire Fighter's rank as of the effective date of the authorized leave.

C. When the Fire Fighter whose absence created the vacancy pursuant to Subsection A or B returns to active duty, thus creating a surplus in his/her rank, the last person promoted to that rank will be demoted to the next lower rank and placed on a reinstatement list, with such rights as are prescribed in Section 17 of this Article. The same result applies to all other promotions in lower ranks that resulted from the first promotion because of extended absence and subsequent demotion because of return to active duty. Any prior continuous absence as defined herein shall resume as of the effective date of this Agreement.

**ARTICLE 17  
HIRING & CADET TRAINING**

**PART A. HIRING**

**Section 1. INITIAL HIRING PROCESS**

**A.** Recognizing the City's need for flexibility in the hiring of both experienced fire fighters and Cadets for the Department's regular Training Academy program, the parties hereby agree to the deviations from Chapter 143 hiring procedures specifically authorized by this Article. Except as allowed by this Article, the City will comply with the hiring procedures specified in Chapter 143, and retains all prerogatives granted to it by the statutory procedures.

**B. Submission of Proper Application**

1. In order to be considered for the position of cadet, each applicant must first submit a proper application as reasonably defined by the Department. A proper application shall include, but not be limited to, information on personal history, criminal history, driving record, and age. The information submitted shall be used by the Department to determine whether the applicant meets the minimum qualifications to proceed to the testing phases of the process.

2. The Fire Chief shall establish the eligibility and posting requirements for applicants for the position of fire cadet which: (a) shall not be less than the requirements listed in Local Government Code Sections 143.022 through 143.024; and (b) will include a criminal background check conducted by or coordinated through the AFD Professional Standards Office.

3. Any testing procedure ultimately used to create an eligibility list for beginning positions must be open to each person who makes a proper application and meets the requirements prescribed in this Section, unless otherwise specified in this Article.

**C. Hiring Process Oversight Committee**

1. The Department shall implement a Hiring Process Oversight Committee (HPOC) to assist in the selection of one or more third party hiring process vendor(s) and in the development of the hiring selection process. The Association may appoint two voting members and one non-voting member to the HPOC. The remaining three voting members of the HPOC will be appointed by the Fire Chief. The Director of Civil Service may also appoint two non-voting members.

2. **Vendor Selection.** The HPOC will identify the criteria (scope of work) to be used to select the third party vendor, and to assist the City Purchasing Office in the development of a request for proposals (RFP). The HPOC will endeavor to reach consensus on a recommendation on the scope of work, the development of the RFP, and the selection of its recommended vendor. The failure to reach consensus shall not be a grievable matter and shall not delay the selection process. Vendor solicitations and evaluations shall be conducted

in accord with applicable procedures of the City's Purchasing Office. The HPOC shall evaluate and score proposals as provided under Purchasing Office procedures (which may include interviewing applicants and checking references) and make a recommendation of vendor(s) to the Fire Chief, who retains final authority to recommend a vendor on behalf of the Department. A third party vendor shall be a professional vendor who is not a current or former employee of the City of Austin. The Fire Chief's final recommendation of a test vendor to the City Council shall not be a grievable matter and shall not delay the hiring selection process.

3. In identifying the rating criteria to be used in the selection of the third party vendor, and in making its recommendation of a vendor(s) to the Fire Chief, the HPOC may consider, among other factors:

- a) The vendor's demonstrated ability to produce diverse pools of successful firefighters in other major or comparable metropolitan cities;
- b) The vendor's demonstrated ability to provide criterion-related validity evidence to support or justify the use of the specified assessments. Claims of criterion-related validity should be supported by an appropriate validity coefficient and the requisite information and data that went into the generation of the specified coefficients;
- c) The vendor's demonstrated ability to provide empirically based evidence to support statements pertaining to subgroup differences and adverse impact reduction or elimination.
- d) The vendor's prior experience in designing and implementing hiring processes for fire departments of 300 members or more; and
- e) The vendor's prior experience in designing and implementing hiring processes for candidate pools of 1,000 applicants or more.

4. A third party vendor (once awarded), upon request of two or more members of the HPOC, will meet with the HPOC as a group and discuss the methods used in developing the testing processes.

#### **D. Development and Implementation of Hiring Selection Process**

1. The City, acting through the Fire Chief as its duly appointed representative, with the assistance of the third party vendor and the HPOC, shall design a hiring selection process to determine whether an applicant will be offered a position as a Fire Cadet in an AFD Fire Academy class. The proposed hiring process shall include the items outlined in subsections (a) through (d) below. If the proposed hiring process complies with the items outlined in subsections (a) through (d) below, the proposed process shall not be a grievable matter and shall not delay the hiring process.

- (a) The hiring selection process will include, at a minimum, a cognitive test,

an oral assessment process, a physical ability test, a medical test, a psychological test and a background investigation; and will include points for military service as determined by the Fire Chief in consultation with the vendor. The hiring selection process may include non-written Selection Devices.

(b) The cognitive test shall be constructed by the vendor with the assistance of the HPOC and the Fire Chief and shall test for multiple cognitive components as determined by the vendor. The cognitive test shall have criterion-related validity based on overall job performance as measured by a Pearson correlation coefficient of at least .28 (corrected using only predictor range restriction and criterion unreliability), unless the vendor demonstrates that the test has criterion-related validity based on another accepted statistical method constructed using practices found in authoritative sources such as U.S. Department of Labor guidelines, the Society for Industrial and Organizational Psychology, or the Equal Employment Opportunity Commission employee selection materials. The vendor will decide which and how many cognitive components to include. In doing so, the vendor must:

(i) Use cognitive components that have been deemed to be important for successful performance as an Austin fire fighter (non-exclusive examples: Verbal Comprehension, Verbal Expression, Problem Sensitivity, Deductive Reasoning, Inductive Reasoning, Information Ordering, Numeric Facility, Mathematical Reasoning, Mechanical Aptitude, and Spatial Orientation);

(ii) Make reasonable efforts to explore the availability of, and if available, use cognitive components which have been shown to reduce or eliminate disparate impact upon African Americans, Hispanics, and women without diminution of job-relatedness as set out in this subsection; and

(iii) Weight the cognitive components of the written test to be at least 20% of the total composite score.

(c) The oral assessment process shall be videotaped. Evaluators will be provided at least 8 hours of training. This evaluator training will include frame-of-reference training designed to reduce evaluator panel variance.

(d) Applicants who successfully complete all the screening and testing procedures will be placed on an eligibility list in the rank order determined from their composite scores on all scored selection devices used in that hiring cycle. The scored selection devices will include at a minimum the cognitive exam and oral assessment process. Scored selection devices may also include non-cognitive components as determined by the test vendor. Pass/fail type exams may be used *to* establish candidate pools that are at least minimally qualified to continue in the hiring process. Applicants on the eligibility list may be offered a position as fire cadets in any upcoming AFD Cadet Training Academy class in rank order during the life of the eligibility list, with the exception of Section 3.

(e) The Chief may, at his/her discretion, place candidates from the ranked eligibility list who possess TCFP and NREMT certification in an Alternate Cadet Training Class.

While the Chief may select candidates for the Alternate Cadet Training Class who are out of order on the ranked list, such candidates must otherwise fall within the likely selection range of the ranked eligibility list. The Alternate Cadet Training Class can be expedited but must provide a minimum of 14 full weeks training designed to ensure that candidates attending the Alternate Academy can successfully meet or exceed all the requirements established for the regular Academy. Applicants on the eligibility list may be offered a position as fire cadets in any upcoming AFD Cadet Training Academy class in rank order during the life of the eligibility list, with the exception of Section 6.C.4.

**E. Transition Hiring Process**

A fire cadet hiring process commenced but not completed prior to the effective date of this Agreement may be continued under the procedures in effect immediately before the effective date of this Agreement (including applicable provisions of Chapter 143). The eligibility list for such process shall be effective for one year. Fire cadets appointed to a cadet academy under such process shall be deemed to have been appointed in compliance with this Article.

**F. Association Participation and Confidentiality**

1. The HPOC may consult with the third party vendor in the development of the hiring selection process and provide input to the Fire Chief regarding the vendor's recommendations. The HPOC will endeavor to reach consensus in performing its role. The City, acting through the Fire Chief as its duly appointed representative, retains the final authority as to the design and implementation of a hiring selection process. The third party vendor shall certify that the hiring process is consistent with the "Principles for the Validation and Use of Employees Selection Procedures" published by the Society for Industrial and Organizational Psychology. This certification shall serve as conclusive evidence of validity and compliance with these principles, in the absence of fraud, substantive integral compromise, or material manipulation.

2. During the development of the hiring selection process, the Association President and an expert chosen by the Association may review the raw data used to determine the validity coefficient of the cognitive test. This review will include all job analysis information that is used to or contributes to demonstrating the validity of all scored selection devices in the test battery (including the oral assessment process); pertinent descriptive statistics, including the item-construct map (breakdown of the number of questions that measure each component to be tested, as well as the pass/fail rate for each cognitive component tested); and requisite item (i.e., item-level construct)/KSA/task linkages, item analysis and statistics, along with all predictor and criterion data.

3. Once the Fire Chief has approved a hiring process, the process will be made available to the HPOC and the Association President.

4. The hiring process information made available to the HPOC and the Association President shall not include the actual tests. The members of the HPOC and the Association agree that this information is confidential, and shall not be divulged in any manner, except the Association President may provide such information to an expert for review, provided

that the expert likewise agrees to maintain such information in confidence. The members of the HPOC and the Association further agree that all copies of the provided information will be returned to the City upon completion of the review, and that no portion of the data shall be retained in any form by the HPOC, the Association, its President, or its expert.

## **Section 2. EXPEDITED CONTRACT GRIEVANCE PROCEDURE**

A. For the provisions of Section 1 of Part A of this Article that may be submitted for resolution as a Contract Grievance, the parties have agreed to the following expedited Contract Grievance procedure.

B. Within ten (10) days of the date upon which the Association President knew of or should have known of the facts or events giving rise to the grievance, the Association President shall file the grievance with the Fire Chief and the City Labor Relations Office. After receipt of the grievance, the Fire Chief shall, within seven (7) days of receipt of the grievance, submit his/her response in writing to the Association President.

C. If the grievance is not resolved, the Association shall have seven (7) days from receipt of the Fire Chief's decision to submit the matter to arbitration. Such arbitrations shall be conducted pursuant to the Expedited Labor Arbitration Procedures established by the American Arbitration Association ("AAA"), and in effect at the time of the dispute. To be appointed, the arbitrator must be available to hear the arbitration within thirty (30) calendar days of selection and a decision shall be made within one (1) week of the hearing. The parties agree to create a list of pre-approved arbitrators. Failing same, or in the absence of an available arbitrator from such pre-approved list, the arbitrator designated by the AAA shall be required to be licensed as an attorney in the State of Texas. The parties both agree that the arbitrator has the discretion to receive and hear issues and testimony by written submission, phone, or video conference, but may also require live testimony where appropriate.

D. Article 20 of this Agreement shall not apply to any grievance under Section 1 of Part A of this Article.

## **Section 3. LIFE OF ELIGIBILITY LIST**

Notwithstanding the provisions of Section 143.025, each eligibility list created during the life of this Agreement will be designated with a life of no less than twelve (12) months nor more than twenty-four (24) months from the date that the list is effective as a final eligibility list. The duration of the list shall be specified in the notice to submit applications. A final eligibility list in existence on the expiration date of this Agreement may continue to be used until the latter of the following dates: (a) six months beyond the expiration date of this Agreement, or (b) the last day the parties remain in good faith negotiation of a successor Agreement without declaration of an impasse. Any applicant hired under a list in effect on the expiration date of this Agreement shall continue to be trained utilizing the training standards in Part B of this Article.

A new hiring process may be started and a new eligibility list may be created during the life of an existing list, but no candidates may be hired from such new eligibility list until the earlier



list is exhausted or expires.

#### **Section 4. TRAVIS COUNTY ESD MERGER**

If the City proposes to merge a Travis County ESD into the Austin Fire Department during the life of this Agreement, the parties agree that the City may use either of the options set forth below as the merger entry process:

##### ***Option 1***

###### **A. Applicability**

The Travis County ESD merger entry process applies only to the hiring of certified fire fighters who work for a Travis County ESD and meet the requirements established in Appendix C.

###### **B. Eligibility Requirements**

1. Eligibility requirements are established in Appendix C. The requirements need not be the same as those established by Chapter 143 or those applicable to applicants for the position of Cadet in the Department's regular Training Academy.

2. Upon hire, each ESD merger entry candidate must complete an alternate training academy established in Appendix C. The probation period for ESD merger entry candidates ends twelve months from the date of hire.

3. Each ESD merger entry candidate must successfully complete all Training Standards established in this Agreement and Appendix C.

###### **C. Civil Service Status**

Upon successful completion of the Alternate Training Academy and probationary period, each fire fighter hired through this process shall immediately become a full-fledged Civil Service employee.

###### **D. Pay and Seniority**

1. Within the guidelines established in Appendix C, The Fire Chief may determine the pay rate for each ESD merger entry class during the Alternate Training Academy within the guidelines established in Appendix C. Upon completion of the Academy, the Fire Chief may determine the pay rate for each class hired through this ESD merger entry process within the guidelines established in Appendix C. Any pay rate established by the Chief shall not exceed that of a fire fighter with two years of experience in the Austin Fire Department. Each ESD merger entry hire shall be placed in the rank of fire fighter.

2. Regardless of the pay rate established for each ESD merger entry hire,

seniority for purposes of longevity pay shall begin from the date of hire.

**E. Promotional Eligibility**

Fire fighters hired through the ESD merger entry process must meet the same promotional eligibility requirements as Austin Fire Department fire fighters hired through the Department's regular initial hiring process.

**F. Implementation**

The ESD merger entry process described by this Article may be used at any time, for any number of Travis County ESDs, as authorized by the Fire Chief.

***Option 2***

The Association will be provided advance notice and an opportunity to negotiate the terms and conditions of an ESD merger. The bargaining process shall be limited to 60 days unless extended by agreement. In the event the parties are unable after 60 days of bargaining to reach an agreement, a party may request, but neither party shall be required, to use mediation or arbitration to resolve disputed issues under Texas Local Government Code Chapter 174.

**Section 5. LATERAL ENTRY**

**A. Applicability**

The lateral entry process applies only to the hiring of certified fire fighters.

**B. Eligibility Requirements**

1. The Fire Chief shall establish the eligibility requirements for applicants for the lateral entry process. The requirements need not be the same as those established by Chapter 143 or those applicable to applicants for the position of Cadet in the Department's regular Training Academy. The requirements may be modified by the Fire Chief, but shall include at least the following:

2. At the time of application, each applicant must have been actively employed as a structural fire fighter for one or more municipalities, ESDs, military or county fire departments within the two years prior to the date of application and must have a total of at least three years of active service as a fire fighter for one or more municipalities, ESDs, military or county fire departments. Austin-Travis County EMS employees, who have structural firefighting certification and three or more years prior experience with a fire department, also qualify for the lateral entry program.

3. Each applicant will be subject to a background investigation.

### **C. Selection and Placement**

1. The Fire Chief shall use the selection criteria and procedures set out in this Article to establish an eligibility list, except that the age limits of Local Government Code §143.023 shall not apply.

2. Applicants who successfully complete all screening and testing procedures will be placed on an eligibility list. Applicants on the eligibility list may be offered a position as fire cadet in any upcoming Fire Academy class or placed in any Alternate Cadet Training class, if so, determined by the Chief.

3. The Fire Chief may, at his/her discretion, place candidates from the eligibility list who possess TCFP and NREMT certification in an Alternate Cadet Training Class. While the Chief may select candidates for the Alternate Cadet Training Class who are out of order on the ranked list, selected candidates may not otherwise fall outside the reach of the hiring process eligibility list. The Alternate Cadet Training Class can be expedited but must provide a minimum of 14 full weeks of training designed to ensure that candidates attending the Alternate Academy can successfully meet or exceed all the requirements established for the regular Academy.

4. Notwithstanding the provisions of Local Government Code §143.025, should this eligibility list be a separate list, then the life of the eligibility list created during the life of this Agreement will be designated a life of no less than twelve (12) months and not more than twenty-four (24) months from the date that the list is effective as a final eligibility list. The duration of the list shall be specified in the notice to submit applications for lateral entry. A list in existence on the expiration date of this Agreement may continue for a period of time not in excess of 36 months. Any applicant hired under a list in effect on the expiration date of this Agreement shall continue to be trained utilizing the training standards in this Article.

5. Upon hire, each lateral entry candidate must complete an alternate training academy of not less than fourteen (14) weeks, as determined by the Chief.

6. The probation period for lateral entry candidates is twelve months from the date of hire.

7. Each lateral entry candidate must successfully complete all Training Standards established in this Agreement.

### **D. Civil Service Status**

Upon successful completion of the Alternate Training Academy and probationary period, each fire fighter hired through this process shall immediately become a full-fledged Civil

Service employee.

**E. Pay and Seniority**

1. The Fire Chief may determine the pay rate for each lateral entry hire during the Alternate Training Academy. Upon completion of the Academy, the Fire Chief may determine the pay rate for each fire fighter hired through this lateral entry process. Any pay rate established by the Chief shall not exceed that of a fire fighter with two years' experience in the Austin Fire Department. Each lateral entry hire shall be placed in the rank of fire fighter.

2. Regardless of the pay rate established for each lateral entry hire, seniority for purposes of longevity pay shall begin from the date of hire.

**F. Promotional Eligibility**

Fire fighters hired through the lateral entry process must meet the same promotional eligibility requirements as Austin Fire Department fire fighters hired through the Department's regular initial hiring process.

**G. Implementation**

The lateral entry process described by this Article may be used at any time, for any number of candidates, as authorized by the Fire Chief.

**PART B. CADET TRAINING**

**Section 1. CADETS**

Every Fire Cadet applicant hired by the Department must attend an Austin Fire Department Cadet Training Academy. Every applicant selected for a Training Academy must successfully complete the training program by meeting or exceeding all of the requirements established for that Academy.

**Section 2. TRAINING MANUAL**

**A.** The Fire Chief shall issue a Cadet Manual prior to the beginning of each Academy class. Subject to the Fire Chief's authority described below, the provisions of the Cadet Manual shall be published and enforced as written.

**B.** The Cadet Manual must include the following:

1. Requirement for Cadets to achieve all academic and skill performance criteria as mandated by governing agencies such as Texas Commission on Fire Protection, Texas Department of State Health Services, Office of the Medical Director and the National Registry of Emergency Medical Technicians.

2. Requirement for Cadets to achieve all Job Performance Requirements (JPR) and objectives as listed in the Cadet Training Academy curriculum.

3. Requirement for Cadets to achieve satisfactory performance for all Austin Fire Department Cadet Performance Standards. These performance standards must be comprised of essential job functions for an Austin Fire Department fire fighter and have been validated using an accepted process.

4. The composition and role of the Cadet Oversight Committee for the Training Academy to which the Manual applies. The Association will be entitled to have one committee member attend all Cadet Oversight Committee meetings, unless prohibited by law or in the event of confidential privacy issues, as determined by the Chief. In the event that the Cadet Oversight Committee meeting occurs on short notice due to unforeseen circumstances, the Association's observer will be briefed as soon as possible. The observer will use ABL if scheduled to work and will not otherwise be compensated.

5. A description of the process for referring Cadets to the Cadet Oversight Committee when their academic performance or skill performance does not meet the requirements or their behavior is deemed to be unsatisfactory. This process must require written documentation to be presented to the Cadet Oversight Committee and include:

- (a) Lead Instructor documentation of any Cadet Training Academy curriculum JPR or objective not successfully achieved.
- (b) Training Academy staff documentation of any Cadet Manual academic and/or performance criteria not successfully met.
- (c) Training Academy staff or Team Leader documentation of any Cadet Manual violation.
- (d) Team Leader documentation of any unacceptable performance and/or behavior.

6. A description of the process that will be used for developing a Performance Improvement Plan (PIP) when the Cadet Oversight Committee determines that a Cadet's academic performance, skill performance or behavior is unsatisfactory. A Cadet PIP must:

- (a) Explain the performance and/or behavior that is unsatisfactory.
- (b) List the specific objective(s) that must be achieved including criteria for measuring successful achievement of the objective(s).
- (c) Indicate the date by which the objective(s) must be achieved. No Cadet PIP will extend beyond the end date of the Training Academy.

- (d) State any assistance that may be available to help the Cadet achieve the objective(s).
- (e) Identify the consequences for failing to achieve the objective(s) and for not improving to a satisfactory level of performance and/or behavior.

**Section 3. TERMINATION RECOMMENDATION FOR UNSATISFACTORY PERFORMANCE AND/OR BEHAVIOR**

A. The Cadet Oversight Committee or the Training Academy staff shall make a written detailed recommendation that the Fire Chief terminate the employment of a Cadet based on the Cadet's failure to meet the objective(s) of a PIP and achieve a satisfactory level of performance and/or behavior.

B. The Fire Chief may review whether the conditions of the PIP were appropriate and whether an additional PIP is indicated. If the Fire Chief believes that an additional PIP may be indicated, the Chief shall convene a Chief's Review Committee to assist him/her in reviewing the information regarding the issue. The Association will be entitled to have a non-participating observer attend all Chief's Review Committee meetings, unless prohibited by law or in the event of confidential privacy issues, as determined by the Chief.

C. If the Fire Chief determines that the Cadet will be provided with an additional PIP, he/she shall provide written reasons to the Association President for his/her decision. The Association agrees to indemnify the City for any amounts awarded against the City due to a breach of confidentiality or release of this information that is demonstrated to be due to the Association's actions.

**Section 4. ACTIONS BY THE FIRE CHIEF**

A. Once a hiring cycle has begun, the Fire Chief may update the Cadet Training Manual, at any time, to implement any criteria required by law, regulation, or industry standard such as the Texas Commission on Fire Protection, Texas Department of State Health Services, American Heart Association, and the Office of the Medical Director or the National Registry of Emergency Medical Technicians.

B. This Article shall not affect the Chief's existing authority to make determinations about cadets on issues of attendance, discipline, personality, suitability or other such matters not covered by the performance and academic standards established for each cadet class.

C. This Article shall not affect the Chief's authority to make any determination concerning the continued employment of probationary fire fighters.

D. No grievance or other remedy shall apply in the event of termination of a cadet

by the Fire Chief.

E. This Agreement does not create any rights in continued employment for cadets, as third party beneficiaries or otherwise.

## **Section 5. MISCELLANEOUS PROVISIONS**

### **A. Training of Academy Instructors**

AFD Management along with the Association will provide a class before the academy begins to the academy staff and team leaders on contract compliance as it relates to the training standards.

### **B. Association Representative on Curriculum Committee**

The Curriculum Committee is the group charged with creating the recommendation to the Fire Chief regarding amending the AFD operational and cadet training manual objectives. The Curriculum Committee may appoint sub-committees to accomplish a defined scope of work. The sub-committees will report back to the Curriculum Committee with their recommendations. The Association will be able to appoint **(1)** one member to the AFD Curriculum Committee.

## **PART C. OTHER PROVISIONS**

### **Section 1. CHALLENGES TO THE HIRING/TRAINING PROCESS**

In the event of a lawsuit or administrative claim asserted against the Association based on an allegation that a deviation by the City from Chapter 143 hiring or training procedures authorized by this Article violates a state or federal law, the City will reimburse the Association for sums paid as damages in such lawsuit or settlement, and for sums paid as attorney's fees and court costs in defending such lawsuit or claim, subject to each of the following required conditions:

1. The Association will fully and vigorously defend the claim on the merits.
2. The City has the right to approve the amount of any settlement of any such claim against the Association.
3. The Association will not assert a claim against the City based on an action by the City that was required by the terms of this Article.
4. Reimbursement for amounts paid as damages or settlement will be made after resolution of the lawsuit by either final judgment in court (including appeals), or settlement approved by the City.
5. Reimbursement for attorney's fees and costs will be ongoing as such fees

and costs are paid by the Association. The City will reimburse the Association for attorney's fees at the actual hourly rate normally paid by the Association to the attorney, and in any event no greater than the average hourly rate paid by the City for outside counsel during the preceding fiscal year.

6. The City's total liability for damages and/or attorney's fees and costs under this Section will not exceed one hundred fifty thousand (\$150,000.00) dollars for the term of this Agreement, regardless of the number or size of claims asserted against the Association.

**Section 2. EFFECTIVE DATE OF ARTICLE**

The provisions of this Article shall not apply to any training academies commenced before the effective date of this Agreement.



**ARTICLE 18**  
**INVESTIGATION & DISCIPLINARY ACTIONS**

**PART A. INVESTIGATIONS**

**Section 1. DEFINITIONS**

In Part A of this Article, the following terms and phrases have these meanings:

A. “Complainant” means a person claiming to be the victim of misconduct by a Fire Fighter, or the Fire Chief’s designee acting on information of alleged misconduct by a Fire Fighter that could result in disciplinary action.

B. “Investigation” means an administrative investigation, conducted by the Department, of alleged misconduct by a Fire Fighter that could result in disciplinary action against the Fire Fighter.

C. “Investigator” means any agent or employee of the Department who is assigned to conduct an administrative investigation.

D. “Normally assigned working hours” includes those hours during which a Fire Fighter is actually at work or at the Fire Fighter’s assigned place of work but does not include any time when the Fire Fighter is off duty on authorized leave, including sick leave.

E. “Disciplinary action” means temporary disciplinary suspension, indefinite suspension, demotion in rank, alternative discipline under this Agreement, or any combination of those actions.

F. “Complaint” means an allegation that a Fire Fighter engaged in misconduct.

**Section 2. INTERVIEW OF SUBJECT FIRE FIGHTER**

A. An investigator may interview a Fire Fighter who is the subject of an investigation only during the Fire Fighter’s normally assigned working hours, unless:

1. The seriousness of the investigation, as determined by the Fire Chief, or designee, requires interview at another time; and
2. The Fire Fighter is compensated for the interview time on an overtime time basis.

B. The Fire Chief may not consider work time missed from regular duties by a Fire Fighter due to participation in the conduct of an investigation in determining whether to impose disciplinary action or in determining the severity of disciplinary action.

C. An investigator may not interview a Fire Fighter who is the subject of an investigation or conduct any part of the investigation at the Fire Fighter's home without the Fire Fighter's permission.

D. Not less than forty-eight (48) hours before an investigator begins the initial interview of a Fire Fighter who is the subject of an investigation, the investigator must inform the Fire Fighter in writing of the allegations in the complaint. The Department may omit the name and/or identity of the person making the complaint(s). In the event the original notice does not contain all allegations of misconduct under investigation, not less than forty-eight (48) hours before the investigator conducts a subsequent interview of the subject Fire Fighter into the additional allegations, the investigator must inform the Fire Fighter in writing of the additional allegations being investigated. The notice of allegations need not reference any law, Department policy, or civil service rule that may have been violated.

E. An investigator may not interview a Fire Fighter based on a complaint by a complainant who is not a Fire Fighter unless the complainant verifies the complaint in writing before a public officer who is authorized by law to take statements under oath. An investigator may interview a Fire Fighter about events or conduct reported by a witness who is not a complainant without disclosing the name of the witness. An interview may be based on a complaint from an anonymous complainant if the departmental employee receiving the anonymous complaint certifies in writing, under oath, that the complaint was anonymous. The provisions of this Subsection do not apply to an on-the-scene investigation that occurs immediately after an incident being investigated, except that the Fire Fighter under investigation must be furnished, as soon as practicable, a written statement of the allegations in the complaint.

F. An interview session of a Fire Fighter who is the subject of an investigation may not be unreasonably long. In determining reasonableness, the gravity and complexity of the investigation must be considered. The investigator shall allow reasonable interruptions to permit the Fire Fighter to attend to personal physical necessities.

G. An investigator may not threaten a Fire Fighter who is the subject of an investigation with disciplinary action during an interview. An investigator may inform a Fire Fighter that failure to answer truthfully reasonable questions directly related to the investigation or to cooperate fully in the conduct of the investigation may result in disciplinary action.

H. If prior notification of intent to record an interview is given to the other party, either the investigator or the Fire Fighter who is the subject of an interview may record the interview.

I. A Fire Fighter who is the subject of an investigation shall have the right to be represented by an attorney or Authorized Association Representative, both referred to as "representative" in this Article, of the Fire Fighter's choice during an interview and in any subsequent disciplinary and/or appeal proceedings. The attorney or representative cannot be a Fire Fighter who has any involvement with the matter under investigation, other than the Fire Fighter's role as representative of the Fire Fighter who is the subject of the investigation. At the conclusion

of the interview, the Fire Fighter and/or the representative can offer mitigating circumstances to be considered and investigatory leads for the investigator's consideration. The right to representation does not apply to matters that are addressed through the member's chain of command and that do not rise to the level of an investigation as defined in this Article.

J. To ensure a fair and unbiased review of the facts surrounding the alleged conduct, all investigators will adhere to the following principles.

1. The purpose of the investigation is to gather information related to the alleged event and then provide a summary of that information to the Fire Fighter's chain of command.

2. The investigator will plan the interviews in an effort to limit the time period between the interviews of the first witnesses and the subject of the investigation.

3. The investigator will assign to each allegation against the Fire Fighter one of the following:

- Not sustained - The evidence fails to prove the allegation.
- Exonerated - The alleged conduct in fact did occur but the Fire Fighter's actions were acceptable under the circumstances.
- Unfounded-The alleged conduct in fact did not occur.
- Sustained - The department established by a preponderance of evidence that the alleged conduct occurred and constituted misconduct.

### **Section 3. ACCESS TO RECORDS BY FIRE FIGHTERS**

A. Before the Fire Fighter who is the subject of an investigation provides a statement to an investigator, the Fire Fighter and his/her representative shall be provided an opportunity to review any videotape, photograph, or other recording of the operative conduct or alleged injuries that are the subject of the allegations if such recording is within the possession or control of the Department.

B. Before the Fire Fighter who is the subject of an investigation provides a statement to an investigator, the Fire Fighter and his/her representative shall be allowed to review the portions of any document(s) in which it is alleged that the Fire Fighter provided false, incomplete, inconsistent, or conflicting information, or in which it is alleged that the Fire Fighter omitted information in violation of any law or Department policy.

C. Before the Fire Fighter who is the subject of an investigation provides a statement to an investigator, the Fire Fighter and his/her representative shall be allowed to review any report, supplement, or other statement recorded or written by the Fire Fighter, setting forth particulars or facts regarding the operative conduct which is the subject of the allegation(s).

#### **Section 4. STATEMENTS**

A. All recorded interviews of a Fire Fighter who is the subject of an investigation will be transcribed by the Professional Standards Office and signed by the Fire Fighter.

B. A Fire Fighter is entitled to a copy of his/her statement to the investigator at the time the statement is finalized and signed by the Fire Fighter, but the statement remains confidential in the hands of the Fire Fighter and his/her attorney or representative, pursuant to Local Government Code §143.089(g) and any orders of non-communication about internal investigations, except for consultations with the Fire Fighter's attorney or representative.

#### **Section 5. INVESTIGATORS**

A. A person may not be assigned to conduct an investigation if the person is the complainant, the ultimate decision-maker regarding disciplinary action, or a person who has any personal involvement regarding the alleged misconduct.

B. A Fire Fighter who is the subject of an investigation has the right to inquire and, on inquiry, to be informed of the identity of each investigator participating in an investigation of the Fire Fighter.

C. Investigators who will be responsible for conducting an investigation that involves any form of harassment will be trained on this subject.

#### **Section 6. CHAIN OF COMMAND & DISCIPLINARY MEETINGS**

A. A Chain of Command Meeting will be scheduled to consider the information gathered in an investigation and to recommend, if any, the level of discipline against a Fire Fighter. In the Chain of Command Meeting, the following procedures shall apply:

1. The Chain of Command Meeting will include the Fire Fighter's immediate and/or second level supervisors, unless the Fire Chief deems there is an investigatory conflict.

2. Prior to the Chain of Command Meeting, Chain of Command participants shall be trained on their role and responsibilities.

3. Prior to the Chain of Command Meeting, the Fire Fighter and his/her representative shall be allowed up to one (1) consecutive eight (8) hour period of time to review any and all evidence gathered or obtained during the investigation, including the PSO Summary, if any. The information available for review shall not include protected evidence from a pending criminal investigation or judicial proceeding or information that is otherwise made confidential by law. (However, such information will be provided as soon as possible, and prior to the administrative appeal hearing, if any.) Neither the Fire Fighter nor the representative will be permitted to make copies of any of the evidence reviewed. At the conclusion of his/her evidence review, the Fire Fighter and his/her representative will be provided 48 hours to prepare a written rebuttal to be included with the PSO Summary at the same time it is presented to the Chain of

Command panel.

4. The investigator shall present the information gathered during the investigation to the Chain of Command, including the PSO Summary (and Fire Fighter's written rebuttal, if any). The Fire Fighter will be offered the opportunity to be present during this meeting, although the Fire Fighter's presence is not mandatory, and a decision not to attend the Chain of Command Meeting shall not be held against the Fire Fighter.

5. After the Summary has been presented, the Fire Fighter may address the Chain of Command prior to its deliberation. During this time the Fire Fighter will be allowed to present his/her written rebuttal and/or any other exculpatory evidence or extenuating circumstances which he/she would like considered. If deemed appropriate or prudent by the representative, the Chain of Command may allow the Fire Fighter's representative to make a statement and may impose reasonable limits on tone and duration.

6. The Fire Fighter and his/her representative shall be excused during the Chain of Command's deliberation.

7. At the conclusion of this process, the Chain of Command will consider each allegation against the Fire Fighter and provide a recommendation as to the appropriate level of discipline, if any, to be imposed.

B. A Disciplinary Meeting will be scheduled between the Fire Fighter and the Fire Chief for the purpose of determining whether the Fire Chief shall take disciplinary action against a Fire Fighter for alleged misconduct that was the subject of an investigation. In the Disciplinary Meeting, the following procedures shall apply:

Not less than forty-eight (48) hours before the scheduled Disciplinary Meeting:

- 1) The Fire Fighter will be notified of the Disciplinary Meeting.
- 2) The Department shall provide the Fire Fighter written notice of the policy violations and the range of discipline being recommended by the Chain of Command. The recommendation from the Fire Fighter's Chain of Command regarding the appropriate discipline is not binding on the Fire Chief. The Fire Chief will make the final determination on what charges are sustained, if any, and the appropriate disciplinary action, if any, up to and including indefinite suspension.

C. The timelines set forth in this Section may be waived by the Fire Chief and shall not be considered a violation of the Fire Fighter's rights on appeal, if compliance with any such timeline would interfere or conflict with the 180-day statutory deadline for imposing discipline.

## **Section 7. CONFIDENTIALITY OF RECORDS AND MISUSE OF INFORMATION**

The access to records provided in this Article has been granted in exchange for the

following agreements intended to ensure confidentiality and to prevent retaliation or the threat of retaliation against any witness in an investigation:

A. Information provided or made available for review remains confidential in the hands of the Fire Fighters and his/her representative pursuant to Local Government Code §143.089(g), Department policy, and orders of non-communication about internal investigations, except for consultations with counsel and/or Association representatives who are not involved in the investigation.

B. Retaliation or the threat of retaliation by a Fire Fighter, or by an individual at the direction of the Fire Fighter, against a complainant or a witness is strictly prohibited. A sustained violation of this subsection shall result in either a temporary or indefinite suspension.

C. If a Fire Fighter is suspended for an alleged violation of Subsection B, the Fire Fighter shall have the right to appeal the suspension to the Civil Service Commission or to an Independent Third Party Hearing Examiner pursuant to the provisions of this Agreement and Chapter 143 of the Texas Local Government Code. The Commission or the Hearing Examiner shall decide whether the specific charge related to Subsection B is true. If the charge is found to be true, the Commission or Hearing Examiner must affirm the disciplinary action and cannot amend, modify, or reduce the period of disciplinary suspension. Section 143.053(e) & (f) of the Texas Local Government Code are hereby superseded to the extent of any conflict with this Section.

## **Section 8. VIOLATION OF FIRE FIGHTER RIGHTS**

A violation of Part A of this Article may be considered by the Civil Service Commission or a Hearing Examiner during a disciplinary appeal hearing if the violation substantially impaired the Fire Fighter's ability to defend against the allegations of misconduct.

## **PART B. DISCIPLINARY ACTIONS**

### **Section 1. ALTERNATIVE DISCIPLINE**

The Fire Chief shall have the authority to impose alternative disciplinary actions or enter into alternative discipline agreements under this Article when the Fire Chief determines that the use of alternative discipline is in the best interest of the Fire Department. Nothing in this Article shall diminish or otherwise affect the Fire Chief's authority to take other disciplinary actions under Chapter 143.

### **Section 2. ALTERNATIVE DISCIPLINE BY FIRE CHIEF**

In considering appropriate disciplinary action, the Fire Chief may require that a Fire Fighter be evaluated by a qualified professional approved by the Fire Chief. If that professional recommends a program of counseling and/or rehabilitation for the Fire Fighter, the Fire Chief may,

as an alternative to temporary or indefinite suspension, or in combination with a temporary suspension, require that the Fire Fighter successfully complete the recommended program. The program of counseling and/or rehabilitation will be completed on the Fire Fighter's own time, unless the Fire Chief approves the use of vacation time. The Fire Fighter shall be responsible for paying all costs of the program of counseling and/or rehabilitation which are not covered by the Fire Fighter's health insurance plan. If the Fire Fighter's misconduct involves alcohol and/or drug related behavior, the Fire Chief may require that the Fire Fighter submit to mandatory alcohol and/or drug testing, upon order by the Fire Chief, for a specified period of time. If, after entering the program of counseling and/or rehabilitation, the Fire Fighter fails or refuses to complete the program, the Fire Fighter may be indefinitely suspended. The Fire Fighter has the right to appeal to the Civil Service Commission or to a third-party hearing examiner any discipline imposed under this Section by filing an appeal notice in accordance with the provisions of Chapter 143. On appeal, the Civil Service Commission's or hearing examiner's authority shall be limited to determining the facts, whether the facts reflect a policy violation, and the appropriate length of suspension, if any. Neither the Commission nor a hearing examiner may substitute a program of counseling and/or rehabilitation different than the program imposed by the Fire Chief or to substitute any period of suspension for the required program of counseling and/or rehabilitation.

### **Section 3. ALTERNATIVE DISCIPLINE BY AGREEMENT**

In considering appropriate disciplinary action, the Fire Chief may require that a Fire Fighter be evaluated by a qualified professional approved by the Fire Chief. If that professional recommends a program of counseling and/or rehabilitation for the Fire Fighter, the Fire Chief may, as an alternative to temporary or indefinite suspension, or in combination with a temporary suspension, offer the Fire Fighter the opportunity to enter into an alternative disciplinary agreement under which the Fire Fighter would accept a temporary suspension of up to ninety (90) days and agree to successfully complete the program of counseling and/or rehabilitation recommended by the qualified professional approved by the Fire Chief. The program of counseling and/or rehabilitation will be completed on the Fire Fighter's own time unless the Fire Chief approves the use of vacation time. The Fire Fighter shall be responsible for paying all costs of the program of counseling and/or rehabilitation which are not covered by the Fire Fighter's health insurance plan. If the Fire Fighter's misconduct involves alcohol and/or drug related behavior, the Fire Chief may require that the Fire Fighter submit to mandatory alcohol and/or drug testing, upon order by the Fire Chief, for a specified period of time. If the Fire Fighter accepts the opportunity for agreed alternative discipline, the Fire Fighter may not appeal any terms of the agreement. If the Fire Fighter fails to successfully complete the program of counseling and/or rehabilitation, the Fire Fighter may be indefinitely suspended without right of appeal.

### **Section 4. LAST CHANCE PROBATION AGREEMENT**

A. In considering appropriate disciplinary action, the Fire Chief may require that a Fire Fighter be evaluated by a qualified professional approved by the Fire Chief. If that professional recommends a program of counseling and/or rehabilitation for the Fire Fighter, the Fire Chief may offer the Fire Fighter, as an alternative to indefinite suspension, the opportunity to enter into a "Last Chance Probation" agreement. The agreement may include the following provisions in addition to any other provisions agreed upon by the Fire Fighter and the Fire Chief:

1. The Fire Fighter will successfully complete the program of counseling and/or rehabilitation recommended by the qualified professional approved by the Fire Chief.

2. The program of counseling and/or rehabilitation will be completed on the Fire Fighter's own time, unless the Fire Chief approves the use of vacation time. The Fire Fighter shall be responsible for paying all costs of the program of counseling and/or rehabilitation which are not covered by the Fire Fighter's health insurance plan.

3. The Fire Fighter will agree to a probationary period not to exceed one year, with the additional requirement that if, during the probationary period, the Fire Fighter commits the same or a similar act of misconduct, the Fire Fighter will be indefinitely suspended without right of appeal.

B. If the Fire Fighter's misconduct involves alcohol and/or drug related behavior, the Fire Chief may require that the Fire Fighter submit to mandatory alcohol and/or drug testing, upon order by the Fire Chief, for a specified period of time. If the Fire Fighter accepts the opportunity for a "Last Chance Probation" agreement, the Fire Fighter may not appeal any terms of the agreement. If the Fire Fighter fails to successfully complete the agreed program, the Fire Fighter may be indefinitely suspended without the right of appeal.

#### **Section 5. PUBLISHING NOTICE OF DISCIPLINE**

The Fire Chief must publish and circulate within the Department a communication which informs Fire Fighters of a disciplinary suspension imposed by the Fire Chief or disciplinary suspension agreed to by the Fire Chief and a Fire Fighter. The communication may include the Fire Fighter's rank; each policy rule which was violated; any extenuating or mitigating circumstances; a brief factual description if the policy or rule violation is not self-explanatory; and the discipline imposed or agreed to by the Fire Fighter. The communication shall not identify the Fire Fighter by name.

#### **Section 6. EXTENDING DISCIPLINARY DEADLINE BY AGREEMENT**

A. A Fire Fighter and the Chief, or his/her designee, may agree to extend the 180-day statutory deadline for discipline action for a period not to exceed thirty (30) days. Either the Fire Fighter or the Fire Chief may offer or request the extension. The agreement to extend the statutory deadline shall be in writing and shall be signed by both the Fire Fighter and the Chief, or his/her designee.

B. Any disciplinary action taken by the Fire Chief before the extended deadline shall be considered timely. An agreement to extend the deadline does not affect a Fire Fighter's right of appeal from the disciplinary action.



## **Section 7. WRITTEN RESPONSE TO DISCIPLINARY ACTION**

If a Fire Fighter is temporarily or indefinitely suspended; the document imposing the suspension may not be placed in the Fire Fighter's Civil Service Commission file unless the Fire Fighter is first given an opportunity to read and sign the document. If the Fire Fighter refuses to sign the document, it may be placed in the personnel file with a notation that the person refused to sign it. A Fire Fighter who receives a temporary or indefinite suspension and who elects not to appeal the action may file a written response by submitting a written response to the Director of Civil Service not later than the 10<sup>th</sup> day after the date the Fire Fighter is given written notice of the disciplinary action. Any timely written response will be placed in the Fire Fighter's Civil Service Commission file.

## **Section 8. TRANSFERS RELATED TO DISCIPLINE**

The Fire Chief retains all rights and authority to direct the assignment or placement of Fire Fighters. If any Fire Fighter is transferred in relation to a disciplinary action, the Fire Chief shall make every attempt to place the transferred Fire Fighter in a vacant assignment. If a Fire Fighter, other than the Fire Fighter being disciplined, is displaced because of a transfer related to discipline, the Fire Chief will make every attempt to help the displaced individual move to a more desirable location, which may not necessarily be the location from which the disciplined Fire Fighter was moved.

## **Section 9. USE OF ACCRUED LEAVE**

Any Fire Fighter who is suspended from duty for up to fifteen (15) days may request approval of the Fire Chief to use accrued vacation leave to cover all or part of the suspension. The Fire Chief may, in his/her sole discretion, determine whether to approve the Fire Fighter's request and the number of days' vacation leave that may be used. The Fire Fighter must request the use of vacation leave within ten (10) days after receipt of notice of the disciplinary suspension. By requesting the use of vacation leave to cover all or part of the suspension, the Fire Fighter waives all right to appeal the disciplinary suspension to the Civil Service Commission or a Hearing Examiner.

## **Section 10. NON-DISCIPLINARY CORRECTIVE ACTION**

A. Oral counseling, written counseling, and written reprimands are not discipline and are not subject to grievances or appeals as to the substance of the decisions made. A contract grievance may be pursued for violations of the process set forth in this section. Written reprimands shall be initiated on a form which provides space for the Fire Fighter to respond and include his or her version of the event in dispute, which shall be completed and filed within 72 hours following delivery of the proposed written reprimand. That form shall be submitted by the initiating supervisor through the Chain of Command for review and action. There shall be no other requirement for advance notice of any proposed action. The form shall recite any instances of prior counseling or action, or if there are none, shall state the specific reasons justifying the present

action without prior progressive corrective action. Written reprimands shall be initiated by the Fire Fighter's immediate supervisor. The "immediate supervisor" is the one who had immediate supervisory responsibility over the Fire Fighter at the time of the incident. If a higher ranking department officer witnesses the violation, that officer may direct the supervisor to initiate a written reprimand after discussing the incident with the supervisor.

B. If a written counseling or written reprimand is issued to a Fire Fighter, the written counseling or written reprimand may not be placed in the Fire Fighter's departmental personnel file unless the Fire Fighter is first given an opportunity to read and sign the document. If the Fire Fighter refuses to sign the document, it may be placed in the personnel file with a notation that the person refused to sign it. A Fire Fighter may respond in writing to a written counseling or written reprimand by submitting a written response to the Professional Standards Office not later than the 10<sup>th</sup> day after the date the Fire Fighter is asked to sign the document.

C. A written reprimand shall not be used or relied upon in connection with any future corrective action or discipline after 12 months from the date of its approval. If a written reprimand is offered as proof of progressive discipline in a disciplinary appeal hearing, any written response that was timely filed by the Fire Fighter shall be offered in evidence with the written reprimand.

## **Section 11. ESTABLISHMENT OF DISCIPLINARY MATRIX**

A. Within six (6) months after the ratification of this Agreement, the parties agree to establish a joint Committee for the purposes of making recommendations to the Chief on a Disciplinary Matrix to standardize the imposition of disciplinary penalty ranges for most common disciplinary offenses. The Committee shall consist of six members – three (3) appointed by the Chief and three (3) appointed by the Association President.

B. The Committee will make recommendations to the Chief for such Disciplinary Matrix as soon as practicable after its appointment.

C. The Chief agrees to adopt and implement a Disciplinary Matrix within three (3) months of receipt of recommendations from the Committee. Contents of the Disciplinary Matrix remain at the sole discretion of the Chief.

D. If the Chief adopts a Disciplinary Matrix recommended by a majority of the Committee, then Fire Fighter appeals from discipline imposed in accordance with the adopted Disciplinary Matrix shall be limited as follows: if the Civil Service Commission or the Independent Heming Examiner finds that a disciplinary charge against a Fire Fighter is true and is legally sufficient, then the Commission or Examiner shall uphold the disciplinary action so long as the disciplinary action falls within the penalty range in the adopted Disciplinary Matrix for the charge offense.

E. If the Chief adopts a Disciplinary Matrix that was not recommended by a majority of the Committee, the Fire Fighters appealing from discipline imposed in accordance with the adopted Disciplinary Matrix shall retain all their rights to argue that the recommended action does not fit the offense or alleged offense, in addition to any other arguments.

F. Nothing in this Article will prevent the Chief from deviating from the penalty ranges in the adopted Disciplinary Matrix and deviations therefrom remain at the sole discretion of the Chief. Fire Fighters appealing from discipline that deviates from the adopted Disciplinary Matrix shall retain all their rights to argue that the recommended action does not fit the offense or alleged offense, in addition to any other arguments.

### **PART C. EFFECT OF CONTRACT EXPIRATION**

The provisions of this Agreement shall remain in full force and effect after the expiration date of this Agreement as to:

- A. Any investigation assigned a “PSO Number” by the Professional Standards Office prior to the expiration of this Agreement;
- B. Any disciplinary decision by the Fire Chief prior to the expiration of this Agreement; and
- C. Any appeals of such disciplinary action.

**ARTICLE 19  
USE OF CIVILIAN EMPLOYEES**

**Section 1. GOALS AND OBJECTIVES**

The parties acknowledge that they share the interest of utilizing civilian employees in a manner which best accomplishes the goals and objectives of the Department while preserving job security for Chapter 143 Civil Service employees. To fulfill this interest, the parties agree that this Article shall apply to the duties set out herein.

**Section 2. FIRE PREVENTION**

Fire prevention duties shall be performed by Fire Fighters, except that degreed engineers who are civilian employees may be assigned fire prevention duties.

**Section 3. FIRE COMMUNICATIONS**

Fire communications duties will be performed by Fire Fighters, except that the one (1) dispatch position currently filled by a civilian employee will be converted to a Fire Fighter position through attrition. No additional dispatch positions will be filled by civilian employees.

**Section 4. FIRE ADMINISTRATION**

Fire Administration duties, within the meaning of Local Gov't Code 143.003(4)(A)(ix), may be performed by civilian employees. The Department agrees that civilian employees working in Fire Administration will not be used to perform the duties listed in Section 143.003(4)(A)(i-viii and x), or to perform Fire Administration duties currently performed by Fire Fighters.

**Section 5. RECRUITING**

The City may use civilian contractors and/or one-full time civilian employee, in the Recruiting Section, to recruit applicants for the Fire Department. The Association recognizes that recruiting activities are cyclical and during the months immediately preceding the hiring process, the city may employ additional temporary or part time civilian employees to assist in the recruiting efforts.

**Section 6. PUBLIC INFORMATION OFFICER**

The position of Public Information Officer may continue to be a civilian position. The Fire Chief will continue to use Fire Fighters as public information officers for on-camera interviews and/or comments at fire or emergency scenes. The parties specifically agree, however, that no grievances or other claims may be filed by any Fire Fighter if any reporter or camera operator inadvertently speaks with and/or photographs a civilian at a fire or emergency scene.

**Section 7. PHOTOGRAPHY AND VIDEOGRAPHY**

Photography and videography for public information purposes, marketing and training video production may be performed by civilian employees. However, such civilian employees will not be allowed to perform fire photography duties within the meaning of Local Gov't Code §143.003.

**Section 8. AIR SHOP**

The Air Shop supervisor will be under the direct supervision of an on-site Fire Fighter.

**Section 9. WILDFIRE MANAGEMENT DIVISION**

Civilians working in the Wildfire Management Division will not be used for fire suppression duties. Civilians working in the Wildfire Management Division may perform community outreach and education, administer programs, provide training, and conduct wildfire prevention, including prescribed burns, under the direct supervision of a firefighter. These civilians will serve as technical advisors in the Wildfire Management, Wildfire Mitigation and Operations divisions.

**Section 10. INTENT**

The parties agree that current job duties or functions now being performed by civilian employees may continue during this Agreement except as specifically modified in this Article. However, the Department agrees that it will not use civilians to perform duties that would not be permitted under Chapter 143, except as provided in this Article. Furthermore, civilian employees will not supervise the work of Fire Fighters. The City agrees that the use of civilian employees shall not cause a reduction in authorized force.

**ARTICLE 20**  
**CONTRACT GRIEVANCE PROCEDURE**

**Section 1. CONTRACT GRIEVANCES**

The purpose of this grievance procedure is to establish an effective method for the fair, expeditious and orderly adjustment of grievances and, except as provided in Section 5, is exclusively for contract grievances. A contract grievance is defined as any dispute, claim, or complaint involving the interpretation, application, or alleged violation of any provisions of this Agreement.

The Association or any bargaining unit member may file a contract grievance under the terms of this Agreement. Each contract grievance must include:

1. A brief statement of the grievance and the facts or events upon which it is based;
2. The section(s) of the Agreement alleged to have been violated;
3. The remedy or adjustment sought;
4. The steps taken by the grievant to resolve the issue; and
5. For maintenance of standards or past practice grievance, the specific right or practice that is the basis of the complaint must be reasonably identified.

**Section 2. PROCEDURE**

**A. Step 1**

The Association President or an employee who is aggrieved must file a grievance with the Association Grievance Committee within twenty (20) days of the date upon which the Fire Fighter knew of or should have known of the facts or events giving rise to the grievance. A copy of the grievance shall be forwarded to the Fire Chief or his/her designee and the City's Labor Relations Office by the Association Grievance Committee within three (3) days of receipt of the grievance.

The Association Grievance Committee shall within: fifteen (15) days of receipt of the grievance, determine in its sole discretion, if a valid grievance exists. If the Association Grievance Committee determines that no valid grievance exists, it shall notify the Fire Chief or his/her designee and the City's Labor Relations Office that no further proceedings will be necessary. If the Association Grievance Committee determines that the grievance is valid, it shall process the grievance on behalf of the Fire Fighter(s) by forwarding the written grievance to Step 2 of this procedure.

**B. Step 2**

Any grievance found to be valid by the Association Grievance Committee, shall be submitted to the Fire Chief and the City's Labor Relations Office within ten (10) days of the Step 1 ruling. After receipt of the grievance, the Fire Chief shall, within ten (10) days of receipt of the grievance, submit his/her response in writing to the Association Grievance Committee.

**C. Step 3**

If the grievance is not resolved at Step 2, the Association shall have ten (10) days from receipt of the Fire Chief's decision to submit the matter to arbitration. The arbitration procedure will be implemented by the Association notifying the Fire Chief and the City's Labor Relations Office in writing of its intent to submit the grievance to arbitration.

**D. Step 4**

If a grievance is submitted to arbitration, the City and the Association may, within five (5) days of such request, mutually agree to a neutral arbitrator. If the parties are unable to agree on the selection of an arbitrator, the City and Association shall, within five (5) days, jointly request a list of seven (7) arbitrators from the American Arbitration Association or the Federal Mediation and Conciliation Service. Within ten (10) days following receipt of the list of arbitrators, the parties shall select an arbitrator by each party in turn striking one (1) name from the list until only one (1) name remains. The remaining individual on the list shall serve as the arbitrator. The arbitrator so selected shall, through the agency selected, be promptly notified of his/her selection and the parties, in agreement with the arbitrator, shall select a time, place and date for the hearing of the grievance.

1. Within thirty (30) days after conclusion of the hearing, the arbitrator shall issue a written opinion and ruling with respect to the issues presented, a copy of which shall be mailed or delivered to the Association and the City.

2. With respect to the application, interpretation, and enforcement of the provisions of this Agreement, the decision of the arbitrator shall be final and binding on the parties to this Agreement.

3. The arbitrator's authority shall be limited to the interpretation and application of the terms of this Agreement and/or any supplement thereto. The arbitrator shall have no jurisdiction or authority to establish provisions of a new agreement or modify the present Agreement or to arbitrate away, in whole or in part, any provisions of the Agreement or amendments thereto.

4. The cost of the impartial arbitrator shall be borne by the losing party. In the event of a composite decision, the arbitrator shall determine the portion of such cost to be borne by each party. If a transcript of the proceedings is requested, then the party so requesting shall pay for such transcript, unless otherwise agreed to by the parties.

5. Each party shall be responsible for the cost of the attendance of its witnesses at a contract grievance hearing.

**Section 3. TIMELINES AND CALCULATION OF DAYS**

For the purposes of this Article, a day is defined as a business day on which the City conducts normal business. In calculating deadlines, the day of the act, event or default after which a period of time begins to run is not included. The last day of the period is included unless it is a weekend or City observed holiday. All time limits set forth in this Article may be extended by written mutual consent, but if not so extended must be strictly observed. Failure of the Association or the grievant to comply with the time limits set forth will serve to declare the grievance settled, and no further action shall be taken. Failure of the Fire Chief or the City to respond within the time limits shall constitute a denial of the grievance and the grievant (Association) may proceed to the next step.

**Section 4. APPEAL OF ARBITRATOR'S DECISION**

Any appeal of an arbitrator's decision in this procedure shall be strictly and solely limited to the grounds that the arbitrator exceeded his/her authority and jurisdiction as provided under this Agreement, that the decision of the arbitrator was procured by fraud or collusion, or that the arbitrator's decision is based upon a clear and manifest error of law.

**Section 5. STATUTORY APPEALS AND HEARINGS**

Except as specifically provided in this Agreement, all statutory rights of appeal to the Civil Service Commission or Hearing Examiner, including disciplinary matters, promotional bypasses, and demotions will be governed by Chapter 143 and this Agreement, and are not subject to this contract grievance procedure.

**Section 6. INFORMAL GRIEVANCE RESOLUTION**

In an attempt to avoid costly arbitration, the parties will try to informally resolve grievances both prior to their filing and prior to arbitration. The attempt to informally resolve grievances does not extend any deadlines unless specifically agreed upon by the parties. Failure to comply with this section shall not serve as the basis of a grievance, nor shall it be admissible by either party at arbitration.



**ARTICLE 21**  
**PERSONNEL DEVELOPMENT EVALUATIONS**

The parties have agreed that Personnel Development Evaluations/PDE's shall be conducted at least annually, notwithstanding Local Government Code Section 143.082 or Commission rules. The Fire Chief shall determine the frequency of administration of the Evaluations. No information on discipline or reprimands shall be included on the efficiency report/PDE. The PDE's are not intended to form the basis for disciplinary actions. Both parties agree that PDE's will not be used by either party in any disciplinary action, promotional bypass or any type of appeal procedure.

**ARTICLE 22**  
**HEALTH RELATED BENEFITS**

**Section 1. Health Insurance**

During the term of this Agreement eligible Fire Fighters and their eligible dependents shall be offered the same health insurance coverage at the same subsidized cost as approved by Council for other City employees on an annual basis.

**Section 2. Retiree Medical Coverage**

During the term of this Agreement, the City will comply with Chapter 175 of the Local Government Code regarding continued health insurance coverage for eligible retired fire fighters and their eligible dependents. During the term of this Agreement, eligible retired fire fighters and their eligible dependents shall be offered the same health insurance coverage at the same subsidized cost as approved by Council for other retired City employees on an annual basis.

In addition, the City agrees to include Fire Fighters in any Post Employment Health Plan established for any of the City's employees, either public safety or non-public safety, during the term of this Agreement.

**Section 3. Financial Data for COA Health Insurance**

On a quarterly basis beginning at the end of the first full calendar quarter after the effective date of this Agreement, the City will provide the Association with the following group healthcare information on an aggregate basis for all Fire Fighters: medical utilization report, group health plan experience, prescription utilization report, large claims report, fixed administrative cost, and excess loss (stop loss) report.

**ARTICLE 23  
FIRE CADETS**

**Section 1. STATUS OF FIRE CADETS**

By including this Article, the City does not concede that the Association is the exclusive bargaining agent for fire cadets as provided in Texas Local Government Code, Section 174.101 as they do not meet the definition of Fire fighter in Texas Local Government Code, Section 143.003 due to their non-permanent status while cadets, nor do they meet the definition of Fire Fighter in Texas Local Government Code, Section 143.003 as they have not yet met the requirements for certification by the Texas Commission on Fire Protection under Chapter 419, Government Code. Notwithstanding the above, for the purposes of efficiency and the orderly conduct of business, the City has agreed to modify certain portions of Texas Local Government Code Section 143 as it relates to Cadets.

**Section 2. VACATION AND SICK LEAVE ACCRUALS**

**A. Accrual Rates**

Fire Cadets will earn vacation and sick leave at the rate of entry level Fire Fighters during the time they are in Cadet Class.

**B. Leave Conversion for Fire Cadets**

Leave time accrued by Fire Cadets during their Cadet Class will be converted, upon graduation, by applying the standard rate already in use by the Department for converting leave accruals from 40 hours per week to the Operations Division work week schedules.

**Section 3. BILINGUAL PROFICIENCY EXAMINATION FOR FIRE CADETS**

Fire Cadets will be given the opportunity to take a language proficiency examination before graduation from the Fire Academy for any language for which Bilingual Translation Pay is available under Article 9 of this Agreement. The examination may be scheduled by the Department during the Fire Cadets off-duty time. Any Fire Cadet who elects to take the examination during off-duty hours shall not be entitled to compensation for the time spent taking the examination. Each Fire Cadet who passes the examination shall be entitled to begin receiving Bilingual Translation Pay at the first pay period after graduation from the Academy.

**Section 4. SERVICE CREDIT**

Upon graduation from the Fire Academy, Fire Cadets will receive seniority and longevity credit for time spent in the Fire Academy, but such credit will not be counted as time in grade for determining eligibility for promotion.

**Section 5. ASSOCIATION ACCESS TO CADET CLASSES**

The Association, with the approval of the content by the Chief, shall be allowed up to four hours to address each Cadet class to inform them about the Association and its activities. Such time spent addressing Cadet classes shall be deducted from the Association Business Leave pool.

**ARTICLE 24**  
**TESTING FOR IMPAIRMENT**

**Section 1. COMMITMENT TO ELIMINATING DRUG AND ALCOHOL IMPAIRMENT IN THE WORKPLACE**

The City and the Association agree that Fire Fighters work in hazardous situations and that their readiness to perform emergency functions cannot be compromised by impairment from the use of illegal drugs or controlled substances. In order to further this joint interest in protecting Fire Fighters and the public, the City and Association agree to the impairment testing program described in this Article. The City and the Association are committed to the principle that the impairment testing policy for Fire Fighters is designed, and shall be administered, to result in disciplinary action only against those Fire Fighters who have violated the Department's rules, regulations, policies, and procedures.

**Section 2. TESTING FOR IMPAIRMENT**

A. As used in this Article "impairment testing" means the compulsory production and submission of two saliva samples by a Fire Fighter for chemical analysis to detect the presence of prohibited drug or controlled substance usage. Direct observation will be included in the testing process. All fire fighters will be subject to reasonable suspicion impairment testing for alcohol, illegal drugs, and controlled substances based upon Department policy and in accordance with this Article.

B. The substances that will be tested for shall be those listed in 49 CFR Sections 40.85 and 40.87 at the time of the testing. A reasonable suspicion impairment test shall include alcohol testing. A positive test is defined as one where one or more of the above substances appears in a saliva sample in an amount that meets or exceeds the thresholds as established in department policy. A positive alcohol test is defined as one where the blood alcohol concentration is 0.04 percent or greater.

C. Except as stated in this subsection, a Fire Fighter will not be disciplined for the use of a prescription medication for which the Fire Fighter has a current, valid prescription as defined in Texas state law, provided the Fire Fighter is using the prescription medication in compliance with the prescription and Department policy. Any Fire Fighter whose peace officer certification is carried by the Austin Fire Department must comply with all federal and state laws concerning drug and alcohol use and testing, regardless of any valid prescription, and may be disciplined for any violation of such laws.

D. The Department will not engage in random drug testing except as agreed with an individual Fire Fighter as part of an alternative discipline agreement under Article 18.

**Section 3. ASSURANCE OF ACCURATE RESULTS FOR DRUG TESTING**

A. Fire Fighters shall have the right to request that their saliva sample(s) be stored in case of legal disputes. The saliva sample will be submitted to the designated testing facility where a sample will be maintained for the period of one year, if there is a reasonably scientific way to do so. Impairment testing shall consist of two saliva samples for testing as described in Section 2.

B. A Fire Fighter who disputes the results of an impairment test required under this Agreement may request immediately upon notification of a positive test that a confirmatory saliva sample test be conducted. The confirmatory second test must be conducted upon such request. The cost of the second test will be paid by the employee. If the result of the second sample test is negative, the Department will reimburse the Fire Fighter for the cost of the test, and records of the testing shall not be placed or maintained in the Fire Fighter’s personnel file.

**Section 4. CONFIDENTIALITY OF RECORDS**

The Austin Fire Department is committed to protecting the individual dignity, privacy, and confidentiality of Fire Fighters (consistent with the purposes of the testing program). All records pertaining to drug and alcohol tests shall remain confidential except when disclosure is mandated by law or judicial order, or when used in a disciplinary or fitness for duty proceeding. Drug and alcohol test results and records shall be stored in a locked file under the control of the Department’s Impairment Testing Coordinator, under the supervision of the Fire Chief, who will maintain original copies submitted by the laboratory. No access to these files shall be allowed without written approval of the Chief.

**Section 5. EDUCATION**

Mandatory educational programs regarding alcohol and drug use will be implemented for all Fire Fighters, and printed educational materials will be available to Fire Fighters, including Department policies and relevant federal regulations referred to in this Agreement.

**Section 6. SELF-DISCLOSURE PRIOR TO TESTING REQUIREMENT**

If a Fire Fighter self-discloses to the Fire Chief that the Fire Fighter has used illegal drugs or controlled substances, or abused alcohol, and seeks treatment for such use or abuse, the Fire Chief may use one of the alternative discipline processes in Article 18. Any such self-disclosure must occur before the occurrence of any event which forms the basis of the decision to require an impairment test based on reasonable suspicion that the Fire Fighter has violated the Department’s rules, regulations, policies, or procedures.

**Section 7. CONFLICTS**

A. The terms of this Agreement shall prevail in a conflict with Departmental policy regarding alcohol or drug testing.

B. Nothing in this Article restricts the authority of the Fire Chief to impose appropriate disciplinary action for the violation of Department rules, regulations, policies, or procedures regarding:

1. The use or possession of prohibited substances; and/or
2. The misuse of controlled substances or the consumption of alcohol.

**Section 8. EFFECTIVE DATES**

Section 2.D of this Article is effective on the effective date of this Agreement. The remainder of this Article shall become effective 60 days after the Department receives saliva testing equipment.

**ARTICLE 25**  
**PRE-EMPTION OF CIVIL SERVICE AND OTHER PROVISIONS**

In this Agreement the parties agree to the following:

**“Conflict preemption” applies** unless otherwise specified. Texas Local Gov’t Code §174.006 authorizes the parties to alter a “state or local civil service provision” through collective bargaining. To the full extent authorized by §174.006, the parties agree that the provisions of this Agreement shall preempt those portions of any state statute, executive order, local ordinance, or rule with which they specifically conflict only to the extent of such conflict; remaining portions of such provisions will continue to govern the parties’ actions.

**“Total preemption”** applies only where specified. However, to the extent allowed by §174.006, the parties may totally preempt a state statute, executive order, local ordinance, or rule, by placing a provision in this Agreement that: (1) specifically states it is intended to “totally preempt” the law in question, and (2) specifically identifies the law(s) being totally preempted.



**ARTICLE 26**  
**ENTIRE AGREEMENT**

**Section 1. Subjects Bargained**

The parties acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right and opportunity to raise issues and make proposals with respect to any subject or matter which is a mandatory subject of the collective bargaining process, and that the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement. Therefore, the City and the Association, for the duration of this Agreement, each voluntarily and unqualifiedly waive the right, and each agrees that the other shall not be obligated, to bargain with respect to any subject or matter, whether or not 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 or signed this Agreement.

**Section 2. Amendment to the Agreement**

Except as otherwise explicitly stated, this Agreement may be amended during its term by the parties only by written mutual agreement ratified in accordance with the provisions of Chapter 174.

**ARTICLE 27**  
**MAINTENANCE OF STANDARDS**

**Section 1. SCOPE OF ARTICLE**

Subject to Section 2 below, all economic benefits, privileges, and working conditions which are properly and lawfully in effect in the Austin Fire Department as to matters subject to mandatory bargaining under Local Government Code Chapter 174 and enjoyed by the Fire Fighters of the bargaining unit as of the effective date of this Agreement, but which are not included in this Agreement, shall remain unchanged for the duration of this Agreement.

**Section 2. OPERATIONAL NEEDS OF THE DEPARTMENT**

Department management may change those benefits, privileges, and working conditions which it determines, in accordance with this subsection, to interfere with the operation of the Department. Any such changes must be made in good faith, must be consistent with the spirit and intent of the relevant provision or practice, must be reasonable and not discriminatory, must be reasonably related to the safe and orderly operation of the Fire Department, and must not conflict with any state or federal law, governmental regulation, or provision of this Agreement.

**ARTICLE 28**  
**SAVINGS CLAUSE**

If any provision of this Agreement, or the application of such provision, is subsequently declared invalid by reason of any existing or subsequently enacted legislation by any court of competent jurisdiction, such invalidation shall not invalidate the remaining portions of the Agreement; and all other provisions of this Agreement shall remain in full force and effect for the duration of this Agreement. The parties shall meet as soon as possible to agree on a substitute provision. If the parties are unable to agree to a substitute provision within thirty (30) days following commencement of the initial meeting, then the matter shall be postponed until collective bargaining negotiations are next held. If the parties agree to a substitute provision within thirty (30) days, adequate time for ratification shall be granted.

**ARTICLE 29**  
**NOTICES**

**Section 1. ASSOCIATION NOTICES**

Notices the Association is required to provide to the City under this Agreement or Chapter 174, unless specifically noted otherwise, will be provided in writing (by e-mail or U.S. mail) to the Fire Chief's office, the designated attorney in the City Attorney's Office and the City's Labor Relations Office.

**Section 2. CITY NOTICES**

Notices the City is required to provide to the Association under this Agreement or Chapter 174, unless specifically noted otherwise, will be provided in writing (by e-mail or U.S. mail) to the Association President, Secretary/Treasurer and Office Administrator.

**Section 3. DESIGNATION OF NOTICE RECIPIENTS**

Within 7 days after the effective date of this Agreement, both parties will provide the other written notice of the correct mailing and e-mail addresses of its designated recipients.

**Section 4. TIMELINESS OF NOTICE**

A notice will be deemed timely is postmarked or time stamped no later than the date such notice is due.

**Section 5. ADEQUACY OF E-MAIL NOTICE**

Use of e-mail communications under this Article shall be preceded by confirmed exchanges at the outset of the Agreement, from the sending to receiving servers, prior to using the e-mail option for notices under this Article. Any system change by either party which would modify IT protocols, filters, or other technical configurations shall require a confirmed exchange again. A notice sent by e-mail will be deemed timely if addressed to the correct e-mail addresses for the City or the Association and sent by 11:59 p.m. on the due date.

**Section 6. NOTICE OF ADDRESS CHANGES**

Notice of any changes of address or e-mail address must be provided in writing to the other party within 7 days of the change.

**ARTICLE 30  
TERMINATION OF AGREEMENT**

**Section 1. TERM OF AGREEMENT**

A. This Agreement shall be effective as of the date of the award in the interest arbitration proceeding that implements this Agreement, except as to any provisions that specify a different effective date or start date. It shall remain in full force and effect until the 30<sup>th</sup> day of September, 2025.

B. The provisions of this Agreement do not apply to any Fire Fighter who separates from City employment before the effective date of this Agreement or before the effective date of any specific provisions hereof.

**Section 2. CONTINUATION DURING NEGOTIATIONS AND/OR DISPUTE  
RESOLUTION PROCEDURE**

If the parties reach impasse in negotiations for a successor to this Agreement and agree before this Agreement expires to submit to mediation or interest arbitration for a successor to this Agreement, then this Agreement shall be extended for a period of 90 days from expiration of this Agreement, or until final resolution of such mediation or interest arbitration, whichever occurs first.

**Section 3. FUNDING OBLIGATIONS**

The City presently intends to continue this Agreement each fiscal year through its term, to pay all payments due, and to fully and promptly perform all of the obligations of the City under this Agreement. All obligations of the City shall be paid only out of current revenues or any other funds lawfully available therefore and appropriated for such purpose by the City Council, if necessary to comply with the Texas Constitution, Article XI.

**ARTICLE 31**  
**MERGER WITH ATCEMS**

If the City proposes to merge the Austin Fire Department with the Austin-Travis County Emergency Medical Services Department during the life of this Agreement, the parties agree that the Association will be provided advance notice and an opportunity to negotiate the mandatory subjects of bargaining applicable to and directly resulting from the addition of such employees to the bargaining unit before the merger occurs. The bargaining process shall be limited to 120 days unless extended by agreement. In the event the parties are unable after 120 days of bargaining to reach an agreement, a party may request, but neither party shall be required, to use mediation or arbitration to resolve disputed issues under Texas Local Government Code Chapter 174.

**ARTICLE 32**  
**LINE OF DUTY DEATHS**

In the event of a Line of Duty Death (LODD) in the Austin Fire Department, the Fire Chief may authorize TCFP Certified Fire Fighters employed by other municipalities to ride on AFD apparatus as temporary volunteer replacements during the time of the funeral services or other ceremonial involvement of regular Austin Fire Fighters.

Appendix A-1  
Austin Fire Department Civil Service Pay Scale FY24

40-Hour Week																	
Rank	PCLS	SG	Step	10	20	30	40	50	60	70	80	90	100	110	120	130	
			Year	Base	1	2	3	4	5	6	7	8	9	10	11	12	
Firefighter	14050	F02	Hourly	28,735	31,228	33,882	36,982	36,982	36,982	38,832	38,832	38,832	40,773	40,773	40,773	42,812	
			Monthly	4,981	5,413	5,873	6,410	6,410	6,410	6,731	6,731	6,731	7,067	7,067	7,067	7,421	
			Annual	59,768	64,954	70,475	76,923	76,923	76,923	80,770	80,770	80,770	84,808	84,808	84,808	89,049	
Fire Specialist	14025	F06	Hourly			36,593	39,941	39,941	39,941	41,938	41,938	41,938	44,035	44,035	44,035	46,237	
			Monthly			6,343	6,923	6,923	6,923	7,269	7,269	7,269	7,633	7,633	7,633	8,014	
			Annual			76,113	83,077	83,077	83,077	87,231	87,231	87,231	91,593	91,593	91,593	96,172	
Fire Lieutenant	14020	F08	Hourly				43,136	43,136	45,293	45,293	45,293	47,558	47,558	47,558	49,936		
			Monthly				7,477	7,477	7,851	7,851	7,851	8,243	8,243	8,243	8,656		
			Annual				89,724	89,724	94,210	94,210	94,210	98,920	98,920	98,920	103,866		
Fire Captain	13995	F09	Hourly						48,917	48,917	48,917	51,362	51,362	51,362	53,931		
			Monthly							8,479	8,479	8,479	8,903	8,903	8,903	9,348	
			Annual							101,747	101,747	101,747	106,834	106,834	106,834	112,176	
Fire Battalion Chief	13985	F10	Hourly									53,319	55,985	55,985	55,985	58,784	
			Monthly										9,242	9,704	9,704	9,704	10,189
			Annual										110,904	116,449	116,449	116,449	122,271
Fire Division Chief	14015	F11	Hourly									57,585	60,464	60,464	60,464	63,487	
			Monthly										9,981	10,480	10,480	10,480	11,004
			Annual										119,776	125,765	125,765	125,765	132,053

40-Hour Week																
Rank	PCLS	SG	Step	140	150	160	170	180	190	200	210	220	230	240	250	260
			Year	13	14	15	16	17	18	19	20	21	22	23	24	25
Firefighter	14050	F02	Hourly	42,812	42,812	44,952	44,952	44,952	47,200	47,200	47,200	49,560	49,560	49,560	49,560	49,560
			Monthly	7,421	7,421	7,792	7,792	7,792	8,181	8,181	8,181	8,590	8,590	8,590	8,590	8,590
			Annual	89,049	89,049	93,501	93,501	93,501	98,176	98,176	98,176	103,085	103,085	103,085	103,085	103,085
Fire Specialist	14025	F06	Hourly	46,237	46,237	48,549	48,549	48,549	50,976	50,976	50,976	53,525	53,525	53,525	53,525	53,525
			Monthly	8,014	8,014	8,415	8,415	8,415	8,836	8,836	8,836	9,278	9,278	9,278	9,278	9,278
			Annual	96,172	96,172	100,981	100,981	100,981	106,030	106,030	106,030	111,332	111,332	111,332	111,332	111,332
Fire Lieutenant	14020	F08	Hourly	49,936	49,936	52,432	52,432	52,432	55,054	55,054	55,054	57,807	57,807	57,807	57,807	57,807
			Monthly	8,656	8,656	9,088	9,088	9,088	9,543	9,543	9,543	10,020	10,020	10,020	10,020	10,020
			Annual	103,866	103,866	109,060	109,060	109,060	114,513	114,513	114,513	120,238	120,238	120,238	120,238	120,238
Fire Captain	13995	F09	Hourly	53,931	53,931	56,627	56,627	56,627	59,458	59,458	59,458	62,431	62,431	62,431	62,431	62,431
			Monthly	9,348	9,348	9,815	9,815	9,815	10,306	10,306	10,306	10,821	10,821	10,821	10,821	10,821
			Annual	112,176	112,176	117,784	117,784	117,784	123,674	123,674	123,674	129,857	129,857	129,857	129,857	129,857
Fire Battalion Chief	13985	F10	Hourly	58,784	58,784	61,724	61,724	61,724	64,810	64,810	64,810	68,050	68,050	68,050	68,050	68,050
			Monthly	10,189	10,189	10,699	10,699	10,699	11,234	11,234	11,234	11,795	11,795	11,795	11,795	11,795
			Annual	122,271	122,271	128,385	128,385	128,385	134,804	134,804	134,804	141,544	141,544	141,544	141,544	141,544
Fire Division Chief	14015	F11	Hourly	63,487	63,487	66,661	66,661	66,661	69,994	69,994	69,994	73,494	73,494	73,494	73,494	73,494
			Monthly	11,004	11,004	11,555	11,555	11,555	12,132	12,132	12,132	12,739	12,739	12,739	12,739	12,739
			Annual	132,053	132,053	138,656	138,656	138,656	145,588	145,588	145,588	152,868	152,868	152,868	152,868	152,868



Appendix A-1  
Austin Fire Department Civil Service Pay Scale FY24

53-Hour Week																
Rank	PCLS	SG	Step	10	20	30	40	50	60	70	80	90	100	110	120	130
			Year	Base	1	2	3	4	5	6	7	8	9	10	11	12
Firefighter	14050	F02	Hourly	21,686	23,568	25,571	27,911	27,911	27,911	29,307	29,307	29,307	30,772	30,772	30,772	32,311
			Monthly	4,981	5,413	5,873	6,410	6,410	6,410	6,731	6,731	6,731	7,067	7,067	7,067	7,421
			Annual	59,768	64,954	70,475	76,923	76,923	76,923	80,770	80,770	80,770	84,808	84,808	84,808	89,049
Fire Specialist	14025	F06	Hourly			27,617	30,144	30,144	30,144	31,651	31,651	31,651	33,234	33,234	33,234	34,896
			Monthly			6,343	6,923	6,923	6,923	7,269	7,269	7,269	7,633	7,633	7,633	8,014
			Annual			76,113	83,077	83,077	83,077	87,231	87,231	87,231	91,593	91,593	91,593	96,172
Fire Lieutenant	14020	F08	Hourly				32,556	32,556	32,556	34,184	34,184	34,184	35,893	35,893	35,893	37,687
			Monthly				7,477	7,477	7,477	7,851	7,851	7,851	8,243	8,243	8,243	8,656
			Annual				89,724	89,724	89,724	94,210	94,210	94,210	98,920	98,920	98,920	103,866
Fire Captain	13995	F09	Hourly							36,918	36,918	36,918	38,764	38,764	38,764	40,702
			Monthly							8,479	8,479	8,479	8,903	8,903	8,903	9,348
			Annual							101,747	101,747	101,747	106,834	106,834	106,834	112,176
Fire Battalion Chief	13985	F10	Hourly									40,241	42,253	42,253	42,253	44,366
			Monthly										9,242	9,704	9,704	10,189
			Annual										110,904	116,449	116,449	122,271
Fire Division Chief	14015	F11	Hourly										43,460	45,633	45,633	47,915
			Monthly										9,981	10,480	10,480	11,004
			Annual										119,776	125,765	125,765	132,053

53-Hour Week																
Rank	PCLS	SG	Step	140	150	160	170	180	190	200	210	220	230	240	250	260
			Year	13	14	15	16	17	18	19	20	21	22	23	24	25
Firefighter	14050	F02	Hourly	32,311	32,311	33,926	33,926	33,926	35,623	35,623	35,623	37,404	37,404	37,404	37,404	37,404
			Monthly	7,421	7,421	7,792	7,792	7,792	8,181	8,181	8,181	8,590	8,590	8,590	8,590	8,590
			Annual	89,049	89,049	93,501	93,501	93,501	98,176	98,176	98,176	103,085	103,085	103,085	103,085	103,085
Fire Specialist	14025	F06	Hourly	34,896	34,896	36,640	36,640	36,640	38,472	38,472	38,472	40,396	40,396	40,396	40,396	40,396
			Monthly	8,014	8,014	8,415	8,415	8,415	8,836	8,836	8,836	9,278	9,278	9,278	9,278	9,278
			Annual	96,172	96,172	100,981	100,981	100,981	106,030	106,030	106,030	111,332	111,332	111,332	111,332	111,332
Fire Lieutenant	14020	F08	Hourly	37,687	37,687	39,572	39,572	39,572	41,550	41,550	41,550	43,628	43,628	43,628	43,628	43,628
			Monthly	8,656	8,656	9,088	9,088	9,088	9,543	9,543	9,543	10,020	10,020	10,020	10,020	10,020
			Annual	103,866	103,866	109,060	109,060	109,060	114,513	114,513	114,513	120,238	120,238	120,238	120,238	120,238
Fire Captain	13995	F09	Hourly	40,702	40,702	42,737	42,737	42,737	44,874	44,874	44,874	47,118	47,118	47,118	47,118	47,118
			Monthly	9,348	9,348	9,815	9,815	9,815	10,306	10,306	10,306	10,821	10,821	10,821	10,821	10,821
			Annual	112,176	112,176	117,784	117,784	117,784	123,674	123,674	123,674	129,857	129,857	129,857	129,857	129,857
Fire Battalion Chief	13985	F10	Hourly	44,366	44,366	46,584	46,584	46,584	48,913	48,913	48,913	51,359	51,359	51,359	51,359	51,359
			Monthly	10,189	10,189	10,699	10,699	10,699	11,234	11,234	11,234	11,795	11,795	11,795	11,795	11,795
			Annual	122,271	122,271	128,385	128,385	128,385	134,804	134,804	134,804	141,544	141,544	141,544	141,544	141,544
Fire Division Chief	14015	F11	Hourly	47,915	47,915	50,310	50,310	50,310	52,826	52,826	52,826	55,467	55,467	55,467	55,467	55,467
			Monthly	11,004	11,004	11,555	11,555	11,555	12,132	12,132	12,132	12,739	12,739	12,739	12,739	12,739
			Annual	132,053	132,053	138,656	138,656	138,656	145,588	145,588	145,588	152,868	152,868	152,868	152,868	152,868

Appendix A-2  
Austin Fire Department Civil Service Pay Scale FY25

40-Hour Week																
Rank	PCLS	SG	Step	10	20	30	40	50	60	70	80	90	100	110	120	130
			Year	Base	1	2	3	4	5	6	7	8	9	10	11	12
Firefighter	14050	F02	Hourly	29,884	32,477	35,238	38,462	38,462	38,462	40,385	40,385	40,385	42,404	42,404	42,404	44,524
			Monthly	5,180	5,629	6,108	6,667	6,667	6,667	7,000	7,000	7,000	7,350	7,350	7,350	7,718
			Annual	62,159	67,552	73,294	80,000	80,000	80,000	84,000	84,000	84,000	88,200	88,200	88,200	92,611
Fire Specialist	14025	F06	Hourly			38,057	41,539	41,539	41,539	43,616	43,616	43,616	45,796	45,796	45,796	48,086
			Monthly			6,596	7,200	7,200	7,200	7,560	7,560	7,560	7,938	7,938	7,938	8,335
			Annual			79,158	86,400	86,400	86,400	90,720	90,720	90,720	95,257	95,257	95,257	100,019
Fire Lieutenant	14020	F08	Hourly				44,862	44,862	47,105	47,105	47,105	49,460	49,460	49,460	51,933	
			Monthly				7,776	7,776	8,165	8,165	8,165	8,573	8,573	8,573	9,002	
			Annual				93,313	93,313	97,978	97,978	97,978	102,877	102,877	102,877	108,021	
Fire Captain	13995	F09	Hourly						50,873	50,873	50,873	53,417	53,417	53,417	56,088	
			Monthly						8,818	8,818	8,818	9,259	9,259	9,259	9,722	
			Annual						105,816	105,816	105,816	111,107	111,107	111,107	116,663	
Fire Battalion Chief	13985	F10	Hourly								55,452	58,224	58,224	58,224	61,136	
			Monthly								9,612	10,092	10,092	10,092	10,597	
			Annual									115,340	121,107	121,107	121,107	127,162
Fire Division Chief	14015	F11	Hourly								59,888	62,882	62,882	62,882	66,027	
			Monthly								10,381	10,900	10,900	10,900	11,445	
			Annual									124,567	130,795	130,795	130,795	137,335

40-Hour Week																
Rank	PCLS	SG	Step	140	150	160	170	180	190	200	210	220	230	240	250	260
			Year	13	14	15	16	17	18	19	20	21	22	23	24	25
Firefighter	14050	F02	Hourly	44,524	44,524	46,750	46,750	46,750	49,088	49,088	49,088	51,542	51,542	51,542	51,542	51,542
			Monthly	7,718	7,718	8,103	8,103	8,103	8,509	8,509	8,509	8,934	8,934	8,934	8,934	8,934
			Annual	92,611	92,611	97,241	97,241	97,241	102,103	102,103	102,103	107,208	107,208	107,208	107,208	107,208
Fire Specialist	14025	F06	Hourly	48,086	48,086	50,491	50,491	50,491	53,015	53,015	53,015	55,666	55,666	55,666	55,666	55,666
			Monthly	8,335	8,335	8,752	8,752	8,752	9,189	9,189	9,189	9,649	9,649	9,649	9,649	9,649
			Annual	100,019	100,019	105,020	105,020	105,020	110,271	110,271	110,271	115,785	115,785	115,785	115,785	115,785
Fire Lieutenant	14020	F08	Hourly	51,933	51,933	54,530	54,530	54,530	57,256	57,256	57,256	60,119	60,119	60,119	60,119	60,119
			Monthly	9,002	9,002	9,452	9,452	9,452	9,924	9,924	9,924	10,421	10,421	10,421	10,421	10,421
			Annual	108,021	108,021	113,422	113,422	113,422	119,093	119,093	119,093	125,048	125,048	125,048	125,048	125,048
Fire Captain	13995	F09	Hourly	56,088	56,088	58,892	58,892	58,892	61,837	61,837	61,837	64,929	64,929	64,929	64,929	64,929
			Monthly	9,722	9,722	10,208	10,208	10,208	10,718	10,718	10,718	11,254	11,254	11,254	11,254	11,254
			Annual	116,663	116,663	122,496	122,496	122,496	128,620	128,620	128,620	135,052	135,052	135,052	135,052	135,052
Fire Battalion Chief	13985	F10	Hourly	61,136	61,136	64,192	64,192	64,192	67,402	67,402	67,402	70,772	70,772	70,772	70,772	70,772
			Monthly	10,597	10,597	11,127	11,127	11,127	11,683	11,683	11,683	12,267	12,267	12,267	12,267	12,267
			Annual	127,162	127,162	133,520	133,520	133,520	140,196	140,196	140,196	147,206	147,206	147,206	147,206	147,206
Fire Division Chief	14015	F11	Hourly	66,027	66,027	69,328	69,328	69,328	72,794	72,794	72,794	76,434	76,434	76,434	76,434	76,434
			Monthly	11,445	11,445	12,017	12,017	12,017	12,618	12,618	12,618	13,249	13,249	13,249	13,249	13,249
			Annual	137,335	137,335	144,202	144,202	144,202	151,412	151,412	151,412	158,983	158,983	158,983	158,983	158,983

Appendix A-2  
Austin Fire Department Civil Service Pay Scale FY25

53-Hour Week																	
Rank	PCLS	SG	Step	10	20	30	40	50	60	70	80	90	100	110	120	130	
			Year	Base	1	2	3	4	5	6	7	8	9	10	11	12	
Firefighter	14050	F02	Hourly	22,554	24,511	26,594	29,028	29,028	29,028	30,479	30,479	30,479	32,003	32,003	32,003	33,603	
			Monthly	5,180	5,629	6,108	6,667	6,667	6,667	7,000	7,000	7,000	7,350	7,350	7,350	7,718	
			Annual	62,159	67,552	73,294	80,000	80,000	80,000	84,000	84,000	84,000	88,200	88,200	88,200	92,611	
Fire Specialist	14025	F06	Hourly			28,722	31,350	31,350	31,350	32,917	32,917	32,917	34,563	34,563	34,563	36,291	
			Monthly			6,596	7,200	7,200	7,200	7,560	7,560	7,560	7,938	7,938	7,938	8,335	
			Annual			79,158	86,400	86,400	86,400	90,720	90,720	90,720	95,257	95,257	95,257	100,019	
Fire Lieutenant	14020	F08	Hourly					33,858	33,858	35,551	35,551	35,551	37,328	37,328	37,328	39,195	
			Monthly					7,776	7,776	8,165	8,165	8,165	8,573	8,573	8,573	9,002	
			Annual					93,313	93,313	97,978	97,978	97,978	102,877	102,877	102,877	108,021	
Fire Captain	13995	F09	Hourly							38,395	38,395	38,395	40,315	40,315	40,315	42,330	
			Monthly							8,818	8,818	8,818	9,259	9,259	9,259	9,722	
			Annual							105,816	105,816	105,816	111,107	111,107	111,107	116,663	
Fire Battalion Chief	13985	F10	Hourly									41,850	43,943	43,943	43,943	46,140	
			Monthly										9,612	10,092	10,092	10,092	10,597
			Annual										115,340	121,107	121,107	121,107	127,162
Fire Division Chief	14015	F11	Hourly									45,198	47,458	47,458	47,458	49,831	
			Monthly										10,381	10,900	10,900	10,900	11,445
			Annual										124,567	130,795	130,795	130,795	137,335

53-Hour Week																
Rank	PCLS	SG	Step	140	150	160	170	180	190	200	210	220	230	240	250	260
			Year	13	14	15	16	17	18	19	20	21	22	23	24	25
Firefighter	14050	F02	Hourly	33,603	33,603	35,283	35,283	35,283	37,048	37,048	37,048	38,900	38,900	38,900	38,900	38,900
			Monthly	7,718	7,718	8,103	8,103	8,103	8,509	8,509	8,509	8,934	8,934	8,934	8,934	8,934
			Annual	92,611	92,611	97,241	97,241	97,241	102,103	102,103	102,103	107,208	107,208	107,208	107,208	107,208
Fire Specialist	14025	F06	Hourly	36,291	36,291	38,106	38,106	38,106	40,011	40,011	40,011	42,012	42,012	42,012	42,012	42,012
			Monthly	8,335	8,335	8,752	8,752	8,752	9,189	9,189	9,189	9,649	9,649	9,649	9,649	9,649
			Annual	100,019	100,019	105,020	105,020	105,020	110,271	110,271	110,271	115,785	115,785	115,785	115,785	115,785
Fire Lieutenant	14020	F08	Hourly	39,195	39,195	41,155	41,155	41,155	43,212	43,212	43,212	45,373	45,373	45,373	45,373	45,373
			Monthly	9,002	9,002	9,452	9,452	9,452	9,924	9,924	9,924	10,421	10,421	10,421	10,421	10,421
			Annual	108,021	108,021	113,422	113,422	113,422	119,093	119,093	119,093	125,048	125,048	125,048	125,048	125,048
Fire Captain	13995	F09	Hourly	42,330	42,330	44,447	44,447	44,447	46,669	46,669	46,669	49,003	49,003	49,003	49,003	49,003
			Monthly	9,722	9,722	10,208	10,208	10,208	10,718	10,718	10,718	11,254	11,254	11,254	11,254	11,254
			Annual	116,663	116,663	122,496	122,496	122,496	128,620	128,620	128,620	135,052	135,052	135,052	135,052	135,052
Fire Battalion Chief	13985	F10	Hourly	46,140	46,140	48,447	48,447	48,447	50,869	50,869	50,869	53,413	53,413	53,413	53,413	53,413
			Monthly	10,597	10,597	11,127	11,127	11,127	11,683	11,683	11,683	12,267	12,267	12,267	12,267	12,267
			Annual	127,162	127,162	133,520	133,520	133,520	140,196	140,196	140,196	147,206	147,206	147,206	147,206	147,206
Fire Division Chief	14015	F11	Hourly	49,831	49,831	52,323	52,323	52,323	54,939	54,939	54,939	57,686	57,686	57,686	57,686	57,686
			Monthly	11,445	11,445	12,017	12,017	12,017	12,618	12,618	12,618	13,249	13,249	13,249	13,249	13,249
			Annual	137,335	137,335	144,202	144,202	144,202	151,412	151,412	151,412	158,983	158,983	158,983	158,983	158,983

# **APPENDIX B and C**

**(Are continued unchanged from the 2017  
collective bargaining agreement)**