ILLINOIS LABOR RELATIONS BOARD
PETER R. MEYERS, Arbitrator

In the Matter of the Interest Arbitration between: **ELMHURST PROFESSIONAL FIREFIGHTERS ASSOCIATION, LOCAL 3541 – IAFF,** Union, And **CITY OF ELMHURST,** Employer.	Case No. **S-MA-18-300**

DECISION AND AWARD

Appearances on behalf of the Union

Lisa B. Moss—Attorney
Gary J. Klecka—Vice President
Dan Drzewiecki—President
Michael Caccitolo—Insurance Representative
Steve Wroble—Secretary
Scott Wardzala—Treasurer

Appearances on behalf of the Employer

Michael K. Durkin—Attorney
Adam R. Durkin—Attorney
Thomas Freeman—Fire Chief
Valerie Johnson—Human Resources Director
James Grabowski—City Manager

This matter came to be heard before Arbitrator Peter R. Meyers on the 30th day of April 2018 at the Elmhurst City Hall located at 209 North York Street, Elmhurst, Illinois. Ms. Lisa B. Moss presented on behalf of the Union, and Messrs. Michael K. Durkin and Adam R. Durkin presented on behalf of the Employer.

Introduction

The parties involved in this proceeding are the City of Elmhurst, Illinois (hereinafter "the City"), and the Elmhurst Professional Firefighters Association (hereinafter "the Union"). Prior to the expiration of their most recent collective bargaining agreement on April 30, 2017, the parties entered into collective bargaining negotiations over a new contract. The parties ultimately were able to resolve all but three of the issues between them – wages, duration, and health benefit plans.

Pursuant to the Illinois Public Labor Relations Act, 5 ILCS 315/1 et seq. (hereinafter "the Act"), this matter was submitted for Compulsory Interest Arbitration. Prior to the hearing in this matter, the parties resolved two of the three outstanding issues between them, leaving the issue of health benefit plans as the sole remaining issue to be resolved. This matter came to be heard before Neutral Arbitrator Peter R. Meyers on April 30, 2018, in Elmhurst, Illinois. The parties subsequently submitted written, post-hearing briefs, with the Union's brief being received on June 15, 2018, and the City's brief being received on June 19, 2018.

Relevant Statutory Provisions

ILLINOIS PUBLIC LABOR RELATIONS ACT
5 ILCS 315/1 et seq.

> Section 2 It is the public policy of the State of Illinois to grant public employees full freedom of association, self-organization, and designation of representatives of their own choosing for the purpose of negotiating wages, hours and other conditions of employment or other mutual aid or protection.
>
> It is the purpose of this Act to regulate labor relations between the public employers and employees, including the designation of employee representatives, negotiation of wages, hours and other conditions of employment, and resolution of disputes

arising under collective bargaining agreements.

It is the purpose of this Act to prescribe the legitimate rights of both public employees and public employers, to protect the public health and safety of the citizens of Illinois, and to provide peaceful and orderly procedures for protection of the rights of all. To prevent labor strike and to protect the public health and safety of the citizens of Illinois, all collective bargaining disputes involving persons designated by the Board as performing essential services and those persons defined herein as security employees shall be submitted to impartial arbitrators, who shall be authorized to issue awards in order to resolve such disputes. It is the public policy of the State of Illinois that where the right of employees to strike is prohibited by law, it is necessary to afford an alternate, expeditious, equitable and effective procedure for the resolution of labor disputes subject to approval procedures mandated by this Act. To that end, the provisions for such awards shall be liberally construed.

. . .

Section 14(g) At or before the conclusion of the hearing held pursuant to subsection (d), the arbitration panel shall identify the economic issues in dispute, and direct each of the parties to submit, within such time limit as the panel shall prescribe, to the arbitration panel and to each other its last offer of settlement on each economic issue. The determination of the arbitration panel as to the issues in dispute and as to which of these issues are economic shall be conclusive. The arbitration panel, within 30 days after the conclusion of the hearing, or such further additional periods to which the parties may agree, shall make written findings of fact and promulgate a written opinion and shall mail or otherwise deliver a true copy thereof to the parties and their representatives and to the Board. As to each economic issue, the arbitration panel shall adopt the last offer of settlement which, in the opinion of the arbitration panel, more nearly complies with the applicable factors prescribed in subsection (h). The findings, opinions and order as to all other issues shall be based upon the applicable factors prescribed in subsection (h).

Section 14(h) Where there is no agreement between the parties, or where there is an agreement but the parties have begun negotiations or discussions looking to a new agreement or amendment of the existing agreement, and wage rates or other conditions of employment under the proposed new or amended agreement are in dispute, the arbitration panel shall base its findings, opinions and order upon the following factors, as applicable:

(1) The lawful authority of the employer.

(2) Stipulations of the parties.

(3) The interests and welfare of the public and the financial ability of the unit of government to meet those costs.

(4) Comparisons of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally:

(A) In public employment in comparable communities.

(B) In private employment in comparable communities.

(5) The average consumer prices for goods and services, commonly known as the cost of living.

(6) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment and all other benefits received.

(7) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.

(8) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment.

Impasse Issue Submitted for Arbitration

The economic issue of health benefit plans, Section 11.1 of the parties' new collective bargaining agreement, remains in dispute between the parties.

Discussion and Decision

The evidentiary record herein demonstrates that the parties have had a collective bargaining relationship since 1992, when the Union was certified as the exclusive representative of full-time sworn firefighters and lieutenants working within the City's

Fire Department. The parties have negotiated seven collective bargaining agreements during the intervening years. Their seventh and most recent collective bargaining agreement expired on April 30, 2017, and the replacement for this expired contract is at issue in this proceeding. The City also is a party to collective bargaining agreements governing two other employee bargaining units, one of police officers below the rank of sergeant and the other of public works employees.

The City is located west of Chicago, in DuPage County, Illinois, and has a population of more than 44,000 citizens. The City's Fire Department has a staff that currently includes a fire chief, deputy chief, three battalion chiefs, six lieutenants, and thirty-three firefighters, with the Union, as stated, representing the full-time sworn firefighters and lieutenants employed by the City. The record indicates that the City contracts with an outside agency that provides paramedic services.

The evidentiary record establishes that the parties began negotiating over a successor agreement in early March 2017, and the negotiating process included two mediation sessions conducted in November 2017 and March 2018. After the second mediation session ended, the parties had tentative agreements in place as to all but three of the issues between them. The parties then submitted the three remaining issues to interest arbitration for resolution, this being the second time that these parties have proceeded to interest arbitration.

When the parties exchanged their final offers on the three outstanding issues, they determined that there was an agreement on two of those three issues. Accordingly, only the issue of health benefit plans remains to be resolved here. With regard to this

economic issue, this Arbitrator must select either the City's final offer or the Union's final offer as the resolution for the health benefit plans issue. Under Section 14(g) of the Illinois Public Labor Relations Act, 5 ILCS 315/14(g) (hereinafter "the Act"), this Arbitrator is without authority to devise a compromise resolution different from the parties' final offers in connection with any economic issue.

Section 14(h) of the Act, 5 ILCS 315/14(h), sets forth certain statutory factors that serve as the framework for evaluating final proposals in proceedings such as the instant matter. It is well established that not all of the listed statutory factors will apply to every interest arbitration proceeding with equal weight and relevance; one or more of these factors, in fact, may not apply at all. The necessary proper first step in analyzing the impasse issue in dispute, therefore, is to determine which of the statutory factors are relevant and applicable to the instant proceeding and which are not particularly relevant.

Some of the listed statutory factors appear to have little or no applicability to this matter. The lawful authority of the City, for example, does not appear to be at issue, and the evidentiary record herein contains nothing that would suggest that there has been any change in either party's circumstances during the pendency of this matter that would affect the outcome of this proceeding. The parties have entered into a number of stipulations, and these are quite helpful in establishing the procedural steps to be followed in this proceeding.

The parties' stipulations also have a direct impact on one of the most relevant and useful of the listed statutory criteria, the identification of comparable communities. The parties have stipulated that certain external comparable communities should be adopted

as comparators here, and these communities are the Village of Downers Grove, the Village of Lombard, the City of Naperville, the Village of Oak Brook, the Village of Villa Park, the City of Wheaton, and the Village of Hinsdale, all in Illinois. A list of external comparables is intended to establish a range of demographic data, economic conditions, and contractual approaches and terms, within which the community involved in the interest arbitration falls. External comparables are identified and utilized for purposes of, obviously, comparison, but that does not mean that these comparables have to be identical to the community in question. In an interest arbitration proceeding, a list of external comparables that allows for some range of differences creates a useful basis for an analysis of the subject community in terms of where that community is, where it has been, and where it is likely to go during the effective term of a new contract.

The geographic, demographic, economic, and other forms of data in the record about the six communities listed in the parties' stipulation demonstrates that these all are, in fact, appropriate comparators, and they accordingly are adopted as external comparable communities in this proceeding. This Arbitrator must emphasize, however, that although the parties' stipulation includes the Village of Hinsdale among the external comparators here, as proposed by the City, the Union does not wholly endorse this addition, limiting its approval to the single impasse issue involved here and to this proceeding alone. Moreover, the Union has reserved its rights going forward to argue that Hinsdale is not comparable to the City. Because of the unique circumstances of this case, including and especially the nature of the proposed changes to the Agreement language on health benefit plans, this Arbitrator must point out that the parties'

stipulation to include Hinsdale among the external comparators in the instant proceeding should not be deemed as having any precedential effect with respect to the identification of external comparators in any future interest arbitration proceedings involving these parties.

In many interest arbitration proceedings, one party's proposal to add a community to the list of comparables would be significant, especially where economic issues remain in dispute. The overall impact of such a proposed addition, however, does depend upon the precise nature of the issue or issues that are to be resolved. As discussed more fully below, the nature of the City's proposed changes to the Agreement provision on health benefit plans in this particular case serves to blunt the impact of Hinsdale's inclusion in the list of external comparables. Essentially, the appropriate analysis of the City's proposed changes to the Agreement language addressing health benefit plans in this particular proceeding does not heavily rely on comparisons with other communities, certainly not as heavily as often is the case in other interest arbitration proceedings.

In addition to external comparables, internal comparisons with other City employee groups also can be quite helpful in resolving economic and non-economic issues alike. The City currently is a party to two other collective bargaining agreements, with one of these bargaining units composed of all full-time sworn police officers below the rank of sergeant, and the other bargaining unit composed of employees in the City's Public Works Department. The record indicates that the City currently is involved in negotiations with the police unit over a successor to the contract that expired on April 30, 2017, while the City's contract with its Public Works employees currently is in effect.

The terms and conditions set forth in the contracts covering these other bargaining units usefully can be considered in the analysis of the parties' competing proposals on the impasse issue to be resolved here, although it must be noted that the Public Works' employees do not participate in the City's health insurance plan.

Certain other factors set forth in Section 14(h) of the Act also bear some relevance to this proceeding because it involves an economic issue. Consumer price data and evidence relating to overall compensation generally are of great use in analyzing competing proposals over economic issues. In this particular case, however, with the sole impasse issue involving health benefit plans, consumer price data is not as helpful as it typically would be because inflation does not directly affect health insurance premiums. Accordingly, the parties have not presented any CPI data here. The evidence in the record relating to overall compensation and benefits available to employees is relevant and must be included in the analysis of the parties' competing proposals.

The remaining explicit statutory factors are the interests and welfare of the public and the financial ability of the City to meet the costs of the proposals in question. The interests and welfare of the public, set forth in the first part of Section 14(h)(3) of the Act, must be an important consideration in any interest arbitration proceeding, especially with regard to a bargaining unit comprised of first responders. As this Arbitrator has noted in other interest arbitration proceedings, however, this particular factor can cut both ways on economic issues. The public has an obvious interest in keeping the cost of its government in check through operational and administrative efficiency, which would include keeping a tight rein on personnel costs. The public has an equally vital interest,

however, in attracting and retaining high-quality, experienced, and capable employees, particularly front-line safety employees, and this generally requires the outlay of competitive, even attractive, salary and benefit packages.

As for the City's financial ability to pay the costs associated especially with the economic issues that remain in dispute, it is necessary to emphasize that the City has not argued that it is unable to pay the costs of its own or the Union's proposals regarding health benefit plans. The City nevertheless has submitted evidence about its fiscal health. Moreover, this Arbitrator notes that economic difficulties associated with the 2008 economic downturn still face many public employers, and these difficulties are among the factors that "normally and traditionally" should be taken into account when considering benefits of employment such as health benefit plans, pursuant to the "catch-all" provision found in Section 14(h)(8) of the Act.

This Arbitrator now moves on to a focused analysis of the remaining issue in dispute, in light of the relevant statutory factors, the evidence in the record, and the parties' arguments in support of their competing proposals.

Health Benefit Plans, Section 11.1 of the Agreement

The City's final offer on the impasse issue of health benefit plans is as follows:

1. The City proposes adding the following language to the first paragraph of Section 11.1 of the parties' Agreement:

   Effective January 1, 2019, the employee shall pay fifteen percent (15%) of the cost of single or dependent coverage under the City's Comprehensive Health Plan for coverage under either the HAS or HMO plan or twenty-five percent (25%) of the cost of single or dependent coverage under the City's Comprehensive Health Plan for PPO coverage, and the City shall pay the balance of the cost.*

2. The City proposes adding the following language to the note below the first paragraph of Section 11.1 of the parties' Agreement:

   [. . . effective January 1,] 2019, and shall adjust the salary schedules contained in Section 9.1 of this Agreement, accordingly.

3. The City proposes deleting, in its entirety, the final paragraph of Section 11.1 of the parties' Agreement, which describes the Union's right to reopen negotiations over Sections 11.1 through 11.5 of the Agreement, for the purpose of negotiating to replace the City's group health insurance plans with Union-sponsored health insurance plans.

The Union's final offer on the impasse issue of health benefit plans is to maintain the *status quo*.

Because the City is proposing changes to existing Agreement language governing the issue of health benefit plans, while the Union seeks to maintain the *status quo*, the City bears the burden of proving that those proposed changes should be adopted and incorporated into the parties' new Agreement. This Arbitrator disagrees with the Union and notes that the City's proposed changes here do not amount to a complete breakthrough, so the City does not face the heightened proof burden associated with such proposals, but the City nevertheless does face a considerable burden as it attempts to establish the case that its proposed changes to the health benefits provision of the parties' Agreement should be accepted and adopted here.

Whenever parties seek to resolve disputes over contract language through interest arbitration, it is essential to recognize that well-established principle that interest arbitration must be deemed a conservative process. The primary mechanism for an employer and a union representing that employer's workers to establish the contractual

provisions that will govern their relationship moving forward is, of course, collective bargaining. If parties are unable to resolve one or more of the issues between them through bargaining, they may avail themselves of the assistance of a mediator. Public employers and public employees have the additional option of interest arbitration to resolve issues upon which they have reached an impasse. Interest arbitration is a sort of last resort and an alternative to such confrontational actions as strikes and lockouts, which often are prohibited in the public employment sector, particularly with respect to first responders and other safety-sensitive employees.

Because it is so important to encourage and assist parties to resolve their issues through collective bargaining, one of the recognized guiding principles associated with interest arbitration is that interest arbitration should seek to place the parties in the situation they likely would occupy had they themselves negotiated an agreement on the impasse issues presented. *E.g.*, *Illinois Fraternal Order of Police Labor Council and Village of Broadview*, ILRB Case No. S-MA-13-173 at 25 (Fletcher, 2015); *City of Evanston and Local 742, IAFF*, FMCS N. 95-11910 at 20 (Grenig, 1995). It is not preferable for any third party, including an interest arbitrator, to impose from outside any of the conditions that will be binding upon parties to a collective bargaining agreement. This is true even where, as here, an interest arbitrator is limited to resolving an economic issue by choosing between the parties' final offers on that issue.

To the extent that an interest arbitrator nevertheless must impose a resolution upon parties who have been unable to avoid an impasse as to one or more issues, the interest arbitrator must proceed conservatively and settle on a resolution that is compatible with

both the letter and the spirit of the contract provisions that the parties have negotiated for themselves. In the instant case, the City is proposing significant changes to the existing Agreement language on health benefit plans. In the parties' most recent Agreement, Section 11.1 set forth the percentage of the cost of health insurance coverage that would be borne by employees during the term of that contract. Section 11.1 included two annual increases to the employees' percentage share of the cost of PPO coverage, had they opted for that, while the employees' percentage share of the cost of HSA or HMO coverage remained the same over the course of this expired Agreement.

The City's proposal here would increase the employees' percentage share of the cost of both HAS/HMO coverage, from 13% to 15%, and PPO coverage, from 20% to 25%. If the City's proposal were to be adopted, then all employees would face a significant increase in the amount of money they would have to contribute toward their health insurance coverage, no matter what type of coverage they choose.

Section 11.1 of the expired Agreement also contains language describing a *quid pro quo* for the two annual increases in the percentage contribution required from employees opting for PPO coverage, with the City adding 0.75% to the salary schedule effective January 1, 2015. In its final offer here, the City proposes another 0.75% addition to the salary schedule, effective January 1, 2019, as a *quid pro quo* for the increases in employee contributions toward health coverage that it is seeking through this proceeding.

The third and final change that the City has proposed to the existing language of Section 11.1 is to completely eliminate a paragraph therein that provides for a reopener

on the issue of health insurance plans, specifically designed to allow for the negotiation of replacing the City's group health insurance plans with Union-sponsored health insurance plans. As previously noted, the City's Public Works employees participate in Union-sponsored health insurance plans, and not in the City's insurance plans.

It is clear from a reading of the City's final offer on this impasse issue that the proposed changes go to the heart of the foundational compensation issue, which incorporates wages and economic benefits like health insurance coverage. The close tie between contributions toward the cost of health insurance and employee wages is emphasized by the existence of the January 2015 salary addition spelled out as a specific *quid pro quo* for increases in employee contributions scheduled to take effect during the term of the expired Agreement. The fact that the City seeks to duplicate that *quid pro quo* through the changes that it now proposes obviously is further emphasis of the tie between employee contributions toward health coverage and employee wages, highlighting the fact that these are two integral elements of overall compensation.

The very nature of this health coverage issue demonstrates that the types of changes that the City seeks here really must be achieved through collective bargaining and not through the arbitration process. Employee contributions toward health coverage is such a basic and critical part of compensation that contribution rates should be decided by the parties at the bargaining table. A closer look at the City's proposed addition of another adjustment to the salary schedule as a *quid pro quo* for increases in employee contribution rates demonstrates why. First, any *quid pro quo* should be the result of negotiated agreement between the parties to a collective bargaining agreement, and not

imposed by a third party, however well-informed and well-intentioned. Second, the history of the original *quid pro quo* indicates that the parties agreed to the January 2015 salary addition as part of a larger agreement that responded to insurance costs that then were increasing at a rapid pace. At present, the evidence shows that the City's recent insurance costs actually have decreased. Given uncertainties regarding how a number of varied factors (including the ACA, a recently devised insurance co-op involving the City and other communities, and the possibility of replacing the City's insurance plans with Union-sponsored plans) may affect insurance costs going forward, the evidentiary record does not support any finding that the basis for the parties' agreement on and inclusion of the original *quid pro quo* in their expired Agreement continues to exist and continues to support the inclusion of a reiteration of that *quid pro quo* in their new Agreement as part of larger changes to the Agreement's terms governing health insurance benefit plans. Finally, the City is proposing the same percentage increase to the salary schedule as a new *quid pro quo* that the parties previously agreed as the January 2015 *quid pro quo.* The evidence conclusively shows that the proposed salary addition will not cover the increased cost to employees for participating in the PPO family plan. There is little basis for finding that if the parties had been able to reach an agreement on a new *quid pro quo* for increased employee contributions toward insurance coverage, they would have settled on a salary addition that was too small to cover the increase relating to the PPO family plan.

These concerns demonstrate that adoption of the City's proposals relating to increases in employee contribution rates in return for a repeat of the earlier *quid pro quo*

would not yield a result that the parties likely would have reached through negotiation. Moreover, increases in these employee contribution rates and any *quid pro quo* in exchange for such increases should be, and really must be, determined by the parties themselves through collective bargaining. The parties are the ones who must decide if a *quid pro quo* is fair and equitable. This decision should be made during bargaining, not in arbitration.

The City's proposed elimination of Section 11.1's reopener language similarly must be deemed a change that properly must be the result of a negotiated agreement between the parties. A contractual provision addressing whether or not to allow for reopened bargaining over an issue is not of a nature that should be imposed by a third party. Only the parties to a collective bargaining agreement should be able to determine whether or not they will be bound to engage in reopened negotiations. The parties were able to reach such a negotiated agreement in connection with their expired Agreement, and the evidentiary record does not establish any basis in the form of altered circumstances or other actual reason for changing that negotiated agreement to include a reopener within Section 11.1 of the Agreement.

The City, in fact, has not provided evidence that there is an actual or imminent reason for changing the existing Agreement provisions governing health insurance benefits as it has proposed. While the City is not proposing a complete breakthrough, I find that it has failed to meet the burden of proof necessary to establish that its proposed changes to Section 11.1 of the parties' Agreement should be adopted. With the objective evidence in the record showing that the City's insurance costs for its PPO, HMO and

HSA plans all decreasing for 2018, and the prospect for further cost reductions beginning in 2019 with the City's participation in a health insurance co-op with other communities, there does not appear to be any real or imminent economic reason for adopting the City's proposed changes. In fact, the actual and expected decreases in the City's health insurance costs indicate that there is no reasonable basis for imposing an increase in employee contributions toward these costs. It also must be emphasized that the annual wage increases that the parties mutually agreed to incorporate into their new Agreement represent significantly lower total percentage increases than have appeared in any of the parties' seven previous contracts. Because the evidence indicates that the Union agreed to these lower wage increases in lieu of increases to employee health insurance contributions, there would appear to be no sound basis for this Arbitrator to impose such increased contributions on top of the agreed-upon lower wage increases.

While this Arbitrator finds that the City's final offer cannot be accepted here because it is of a nature that should be adopted only as the result of collective bargaining between the parties, it is important to emphasize that to the extent the statutory factors apply to this matter, they support maintaining the *status quo*, instead of implementing the City's proposed changes. External comparisons are not particularly helpful in this unique case because the cost of insurance coverage and the appropriate rate of employee contributions really derive from elements that are specific to the City, its employees, and the insurance market in which they participate. Internal comparisons are not possible here because one of the City's two other bargaining units does not participate in City-sponsored health insurance plans, while the other bargaining unit is itself currently

engaged in negotiations with the City. Inflation data, as previously mentioned, does not directly impact health insurance premiums, while evidence relating to the employees' overall compensation demonstrates that the City's offered *quid pro quo* fails to completely account for all of the increases in employee contributions that the City has proposed. The City has not asserted an inability to pay the costs associated with either its own proposal or the Union's proposal to maintain the *status quo*, with the record affirmatively demonstrating that the City's financial condition does allow it to handle all of its share of the costs associated with the *status quo* on health benefit plans. Finally, the interests and welfare of the public does not appear to tip the balance in either direction with respect to the impasse issue in dispute here.

In accordance with the evidence in the record and the relevant statutory factors, and in light of all the considerations discussed above, this Arbitrator finds that the Union's proposal to maintain the *status quo* on the impasse issue of health benefit plans is more appropriate and shall be adopted. Accordingly, Article XI, Section 11.1, of the parties' expired collective bargaining agreement shall be maintained and included without change in the parties' successor collective bargaining agreement.

Award

This Arbitrator finds in favor of the Union on the remaining impasse issue of the health benefit plan, i.e., the status quo shall remain in force for the entire three-year term of the new collective bargaining agreement.

In addition, at the parties' request, the language set forth in the attached Appendix shall be adopted and incorporated into the parties' new collective bargaining agreement.

The Appendix includes the Union's final offer as amended which the parties stipulated at the outset of the hearing had been agreed to by both parties. All of that language shall be made a part of the parties' new three-year collective bargaining agreement.

PETER R. MEYERS
Impartial Arbitrator

Dated this 13th day of August
2018 at Chicago, Illinois.

APPENDIX

MARCH 13, 2018
CITY OF ELMHURST AND LOCAL 3541, IAFF
TENTATIVE AGREEMENT/OPEN ITEMS MES

Current contract language except as follows:

1. **Fourteen (14) Tentative Agreements executed by the parties April 21, 2017 as attached (Preamble, twelve articles and Appendix A).**

2. **Article XVII – VEBA PLAN** – update date to April 30, 2019 (See attached).

3. **APPENDIX B. DRUG AND ALCOHOL POLICY** – status quo except change .04% to .02% (See attached).

4. **All other issues submitted by the parties are withdrawn with the exception of the following issues that will proceed to interest arbitration unless otherwise agreed to:**

    - **Article IX, Section 9.1 Salaries**
    - **Article XI, Section 11.1 Health Benefit Plan**
    - **Article XX, DURATION AND TERM OF AGREEMENT**

For the City of Elmhurst

For Local 3541, IAFF

JOINT
EXHIBIT
2

~~percentage increase in the amount paid by the employee for either single or dependent coverage shall be capped at not more than twenty-five percent (25%) in any given year.~~

(* As a *quid pro quo* for such change, the City shall add 0.~~75~~25% to the salary schedule, effective ~~January 1, 2015~~upon execution of this Agreement by the City.)

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

Notwithstanding the foregoing, bargaining unit employees shall not be required to pay a higher percentage of the premium cost than the unrepresented sworn employees of the Fire Department, provided, however, if the City offers a group health insurance plan that is subject to an excise tax for high-cost coverage ("Cadillac Tax") under the Affordable Care Act ("ACA") or similar state or federal legislation or regulation, employees who are enrolled in such plan shall be required to pay, as additional health insurance premium contributions, in addition to the employee premium contributions set forth above, an amount equal to any such Cadillac Tax.

~~The parties further agree that at any time following thirty (30) days after execution of this Agreement by both parties, the Union may reopen Sections 11.1 through 11.5 of the Agreement, for the purpose of negotiating to replace the City's group health insurance plans with AFFI-sponsored health insurance plans. Any impasse regarding this reopener shall be resolved in accordance with Section 14 of the Act. By agreeing to the modifications to insurance in this Agreement, the Union is not precluded from exercising its right to reopen negotiations concerning Sections 11.1 through 11.5 of this Agreement, in accordance with the foregoing, but an interest arbitrator appointed pursuant to Section 14 of the Act shall be limited to considering the Union's proposal regarding AFFI-sponsored health plans or the existing language of Sections 11.1, as set forth hereinabove, through 11.5. By entering into this Agreement, neither party is waiving any position regarding the weight to be accorded to the City's proposal in interest arbitration.~~ TA 3/13/19

3. ARTICLE XVII. VEBA PLAN. ~~Strike~~ change date to April 30, 2019

4. APPENDIX B. DRUG AND ALCOHOL POLICY. Amend BAC to 0.02% as follows:

I. Introduction

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

TA mod 3/13/19

II. Policy

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

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

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

For purposes of this policy, "under the influence of a controlled substance" means a confirmed positive test result for a controlled substance and "under the influence of alcohol" means an alcohol concentration of ~~.04~~.02%.

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

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

TA mkd 3/13/18

TA 3/13/18

rehabilitation programs available. The City will also post a copy of this Policy in a prominent place and give a copy of it to all employees.

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

III. Enforcement of Policy

A. When Testing is Required

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

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Reasonable Suspicion Testing

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

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

Random Drug and Alcohol Testing

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

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

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Post-Accident Testing

If you are involved in an accident with a Fire Department vehicle, you must be tested as soon as possible for controlled substances and alcohol if: (a) the accident involved the loss of human life, or (b) bodily injury to a person, who as a result of the injury, immediately receives medical treatment away from the scene of the accident; or (c) damage to a vehicle that requires the vehicle to be towed away from the scene of the accident; or (d) you receive a traffic citation under State or local law as a result of the accident.

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

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

A positive test may result in termination based upon the gravity of the circumstances surrounding the violation, the employee's work history, current performance and an overall review of the work record. If an employee is not terminated, the employee may be subject to discipline such as suspension or demotion and/or participation in and successful completion of

the applicable substance abuse program as a condition of continued employment. Subsequent drug/alcohol testing may also be required as a condition of continued employment.

B. Test Procedure

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

The City shall use only licensed clinical laboratories for drug testing and shall be responsible for maintaining a proper chain of custody. The taking of urine samples shall not be witnessed unless there is reasonable suspicion to believe that the employee is tampering with the collection process. If the first drug test results in a positive finding, a confirmatory test (GC/MS or a scientifically accurate equivalent) shall be conducted. An initial positive test result shall not be submitted to the City unless the confirmatory test result is also positive as to the same sample. If the City, contrary to the foregoing, receives the results of a positive first test which is not confirmed as provided above, any such written information shall be destroyed. For alcohol, the test shall be deemed positive if it is ~~.04~~.02 or above. Upon request, the City shall provide an employee with a copy of any test results which the City receives with respect to such employee, excepting those test results destroyed as provided herein.

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

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

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

C. Appeal Process

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

Human Resources may be appealed, within ten working days to the City Manager whose decision will be final.

IV. Violation of Policy

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

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

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

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

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

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

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

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

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

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

4/21/17 TAD DG (KG)

ARTICLE XIV

PROMOTIONS TO THE RANK OF LIEUTENANT AND BATTALION CHIEF

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Not to exceed a maximum of 70 points.

CORRECTED NAMES

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

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

Not to exceed a maximum of 60 points.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

BEFORE
PETER R. MEYERS
INTEREST ARBITRATOR

In the Matter of the Interest Arbitration Between	)	
City of Elmhurst, Illinois	)	ILRB Case No. S-MA-18-300
and	)	
Elmhurst Professional Firefighters, Association, IAFF, Local 3541	)	

LOCAL 3541 IAFF'S FINAL OFFER FOR INTEREST ARBITRATION

ISSUE NO. 1 (Economic)(Union and Employer Issue)

ARTICLE IX SALARIES AND OTHER COMPENSATION

Section 9.1. Salaries. Effective May 1, 2017, firefighters covered by this Agreement shall be paid on the basis of the following:

Step		Eff. 5/1/17 (2.25%)
A	(start)	$69,661
B	(1 year)	$72,903
C	(2 years)	$76,148
D	(3 years)	$79,388
E	(4 years)	$82,638
F	(5 years)	$88,924
G	(6 years)	$93,678
H	(After 15 years)	$94,467

The increases in salaries for firefighters and lieutenants shall be retroactive to May 1, 2017 for employees still on the active payroll on the date of Arbitrator Meyers' interest arbitration award, provided that any employee who retired or received a disability pension on or after May 1, 2017, but before the date of Arbitrator Meyers' Award shall also be eligible to receive retroactive pay based on the hours worked between May 1, 2017, and the date of retirement or date of commencement of receipt of a disability pension. Payment shall be made on an hour for hour basis for all regular hours worked since May 1, 2017, as well as all hours of paid leave, vacation, holiday pay and overtime hours since May 1, 2017.

Effective May 1, 2018, firefighters covered by this Agreement shall be paid on the basis of the following:

Step		Eff. 5/1/18 (2.25%)
A	(start)	$71,228
B	(1 year)	$74,544
C	(2 years)	$77,861
D	(3 years)	$81,174
E	(4 years)	$84,498
F	(5 years)	$90,925
G	(6 years)	$95,786
H	(After 15 years)	$96,592

The increases in salaries for firefighters and lieutenants shall be retroactive to May 1, 2018 for employees still on the active payroll on the date of Arbitrator Meyers' interest arbitration award, provided that any employee who retired on or after May 1, 2018, but before the date of Arbitrator Meyers' Award shall also be eligible to receive retroactive pay based on the hours worked between May 1, 2018, and the date of retirement or date of commencement of receipt of a disability pension. Payment shall be made on an hour for hour basis for all regular hours worked since May 1, 2018, as well as all hours of paid leave, vacation, holiday pay and overtime hours since May 1, 2018.

Effective May 1, 2019, firefighters covered by this Agreement shall be paid on the basis of the following:

Step		Eff. 5/1/19 (2.25%)
A	(start)	$72,831
B	(1 year)	$76,221
C	(2 years)	$79,613
D	(3 years)	$83,001
E	(4 years)	$86,399
F	(5 years)	$92,970
G	(6 years)	$97,941
H	(After 15 years)	$98,766

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

Step		Eff. 5/1/20 (2.25%)
A	(start)	$ 74,470
B	(1 year)	$ 77,936
C	(2 years)	$ 81,404
D	(3 years)	$ 84,868
E	(4 years)	$ 88,343
F	(5 years)	$ 95,062
G	(6 years)	$100,145
H	(After 15 years)	$100,988

Fire Lieutenant Salaries.

Effective May 1, 2017, fire lieutenants covered by this Agreement shall be paid on the basis of the following:

Step	Eff. 5/1/17 (2.25%)
A	$ 98,891
B	$102,793
C	$106,846
D	$111,406
E	$112,195

Effective May 1, 2018, fire lieutenants covered by this Agreement shall be paid on the basis of following:

Step	Eff. 5/1/18 (2.25%)
A	$101,116
B	$105,106
C	$109,250
D	$113,913
E	$114,719

[1] Pursuant to the Parties' agreement contained in Paragraph 5 of the Ground Rules and Stipulations Of The Parties (Joint Exhibit 1), wages effective May 1, 2020 are proposed solely for the purpose of a final wage offer should the City of Elmhurst propose a 4-year contract effective May 1, 2017 – April 30, 2021, and the arbitrator determines that a 4 year agreement is appropriate. Local 3541 proposes a contract with a 3-year term as set forth in Issue No. 3, *infra*.

Effective May 1, 2019, fire lieutenants covered by this Agreement shall be paid on the basis of the following:

Step	Eff. 5/1/19 (2.25%)
A	$103,391
B	$107,471
C	$111,708
D	$116,476
E	$117,300

Effective May 1, 2020[2], fire lieutenants covered by this Agreement shall be paid on the basis of the following:

Step	Eff. 5/1/20 (2.25%)
A	$105,718
B	$109,889
C	$114,222
D	$119,097
E	$119,940

ISSUE NO. 2 (Economic)(Employer Issue)

ARTICLE XI INSURANCE

Section 11.1. Health Benefit Plan

~~Local 3541 proposes current contract language (status quo).~~ The status quo shall remain in effect

ISSUE NO. 3 (Economic)(Union and Employer Issue)

ARTICLE XX

DURATION AND TERM OF AGREEMENT

Unless otherwise specifically provided herein, this Agreement shall be effective as of the day after the contract is executed by both parties and shall remain in full force and effect until 11:59 p.m. on the 30th day of April, 2020. It shall be automatically renewed from year to year thereafter unless either party shall notify the other in writing at least ninety (90) days prior to the anniversary date that it desires to modify this Agreement. In the event that such notice is given, negotiations shall begin no later than sixty (60) days prior to the anniversary date.

Notwithstanding any provision of this Article or Agreement to the contrary, this Agreement shall remain in full force and effect after the expiration date and until a new

[2] See footnote 1, *supra.*

agreement is reached unless either party gives at least ten (10) days written notice to the other party of its desire to terminate this Agreement, provided such termination date shall not be before the anniversary date set forth in the preceding paragraph.

Respectfully submitted,

/s/ Lisa B. Moss
Lisa B. Moss
Attorney for Local 3541, IAFF

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April 20, 2018