**Association MOU Draft Proposal September 26, 2016**

**ARTICLE XXIII**

EXAMINATIONS AND PROMOTIONS

Section 1. Within sixty (60) days after a vacancy occurs in the ranks of FST, Fire Paramedic, Fire Lieutenant, Medical Lieutenant, Captain, or Battalion Chief, the City shall fill the vacancy. Examinations for FST, Fire Paramedic, Fire Lieutenant, Medical Lieutenant, Captain, or Battalion Chief will be given within thirty (30) days after the expiration of the current eligible list. All other vacancies will be filled within ninety (90) days of the vacancy. Examinations will be given only when a vacancy occurs or is anticipated. At least thirty (30) days prior to such examination, a bibliography will be posted. All eligible lists will be in effect for two (2) years from the date the list is approved by the Human Resources Director. When a list is exhausted prior to its expiration date, the thirty (30) and sixty (60) day provisions of this section are not applicable, but those provisions shall be for a period of not to exceed one hundred twenty (120) days, as long as, in extreme cases, such as the Battalion Chief's examination, the parties can agree to extend the one hundred twenty (120) days, if necessary.

Section 1a. During the first week of each year, the Department will issue bibliographies of all potential materials from which promotional examination questions may be taken, and they will be posted for examinations to be administered within the one-year period beginning the following April. Each material posted in the bibliography will be used to formulate one or more questions for the examination.

Section 2. All examinations for promotion to Captain or the equivalent and below shall be by written examination. The City may weigh oral assessment centers as 50% of the total score for FS6, and 50% to 60% for FS7 and FS8 classifications. A maximum of 16 passing scores on the Battalion Chief examination will be admitted to an assessment center and a maximum of 8 passing scores for all other ranks in FS6, FS7, and FS8. When an examination is announced as written and assessment center and 3 or fewer people pass the written examination, the assessment center shall be waived and the rank order shall be determined according to written grade. Promotion lists shall remain in effect for a period of two years, unless exhausted sooner.

Section 3. The Civil Service Provisions of the City Charter adopted January 24, 1984 and the Civil Service Rules adopted pursuant thereto, as amended, and Ordinance 8064, as amended, shall in all respects govern in promotions, except as amended in this Agreement.

Section 3a. Two points will be added to the score of an applicant taking a promotional exam for a local certification as a paramedic.

Section 3b. To the scores of the applicants for promotion of FS2 through FS8 shall be added a maximum of seven (7) credits or points for the first seven (7) years in grade and shall be prorated on a basis of .083 points per month. These points will be based upon the applicant’s time since he attained the grade specified in the minimum qualifications for the tested position.

Section 3c. Points will be added to the score of an applicant taking the promotional exam for FS-2 through FS-8 for one degree as follows:

1. Associates degree in any of the areas listed herein 2-points.
2. Bachelor’s Degree in any of the areas listed herein 4-points.
3. Master’s Degree in any of areas listed herein 6-points.
4. ~~Bachelor’s or Master’s Degree in an area other than those listed herein 3-points.~~

An employee holding more than one degree shall designate which single degree will be used to calculate the educational points awarded. Degrees from an accredited college or university  ~~in the following areas of study (hereafter referred to as a “preferred area of study” qualify for the purpose of awarding the higher number of educational points as set forth above: Fire Science, Fire Protection, Public Management, Public Administration, Business Administration, Organizational Leadership, Nursing, or Emergency Medical Services. Additionally, any employee who, on or before August 31, 2013 has any degree from an accredited college or university shall qualify for the purpose of awarding the higher number of educational points as set forth above.~~ qualify for the purpose of awarding the number of educational points as set forth above.

Section 3d. Except as provided in Section 13 of this Article, an employee applying for a promotion beginning January 2015 must also meet the following criteria as of the closing date for the written examination. The parties agree that nothing contained in this Article is intended to extend the terms of the Articles of Agreement beyond the date agreed to by the Parties. The dates agreed upon in this section have been selected to provide the members of the Association an opportunity to plan and prepare for examinations and promotions in the future.

Fire Suppression Technician (FS2)

(a) Texas Commission Certification as a Driver/Operation Pumper.

~~(b)~~ ~~Current local certification as a Paramedic within 12 months of the written~~

~~examination beginning in January of 2017. Failure to successfully become~~

~~locally credentialed will result in demotion to the FS1 rank.~~

(b) For those hired after January 2017, an employee must be locally credentialed as a paramedic in order to take an examination for the position of Fire Suppression Technician. The fire fighter must be locally credentialed as of the closing date for the written examination.

Fire Lieutenant (FS4)

1. Successful completion of strategy and tactics, and supervision course from

an accredited college, university or state recognized institution.

1. Texas Commission on Fire Protection Certification as Fire Instructor I.
2. Texas Commission on Fire Protection Certification as Fire Officer I.

Fire Captain (FS5)

(a) Texas Commission on Fire Protection Certification as Fire Officer I.

(b) Texas Commission on Fire Protection Certification as Fire Instructor II.

(c) 2-year degrees (Associates Degrees) or 63 credit hours that are applicable in

a singular Bachelor’s degree program. ~~For those hires after ratification that~~

~~Associates Degrees and applicable credit hours must be in the designated~~

~~areas or study.~~

Fire Battalion Chief (FS6)

(a) Texas Commission on Fire Protection certification as a Fire Officer II.

(b) Bachelor’s Degree ~~– for those hired after the effective date of this agreement, the degree must be in the designated areas of study~~.

Fire Deputy Chief (FS8)

(a) Bachelor’s Degree ~~– For those hired after the effective date of this agreement, the degree must be in the designated areas of study. Designated areas of study shall mean: Fire Science, Fire Protection, Public Management, Public Administration, Business Administration, Organizational Leadership, Business Administration, Nursing, or Emergency Medical Services.~~

Section 4. All promotions to the rank of Assistant Chief (FS9) shall be exempt from competitive examinations and shall be made instead by appointment by the Fire Chief. All Assistant Chiefs will be exempt employees under the FLSA. Only those employees who have been certified fire fighters with the El Paso Fire Department for a minimum of twelve (12) years, and, at the time of appointment, held the rank of FS6 or above, shall be eligible for such appointment. Members so appointed shall serve at the pleasure of the Chief and may be demoted from said position at the Chief's discretion. Any Assistant Chief so demoted shall be returned to the class grade from which he was appointed and shall retain all benefits, including service time and salary increases, to which he would have been automatically entitled had he continuously remained in that class grade. No more than three (3) positions shall be subject to the terms of this Section.

Section 5. Employees who meet the basic requirements will be eligible to take promotional examinations for positions considered to be "lateral" with their current position, those positions to which there would not necessarily be an increase in salary. A Medical Lieutenant is eligible to take a promotional examination for Fire Lieutenant, if all the minimal requirements for the position have been met. A Fire Paramedic is eligible to take a promotional examination for the Fire Suppression Technician, if all the minimal requirements for the position have been met.

Section 6. Any employee who resigns his employment with the Fire Department for any reason, but is reinstated at a later date, shall have his name removed from any promotional eligibility list and shall not be eligible to take any promotional examinations for a period of two (2) years from the date of reinstatement.

Section 7. For examination purposes, an employee's date of employment shall be the date the employee graduated from the Training Academy.

Section 8. The time period an employee must serve in grade before he is eligible to take a promotional examination for a higher position shall be two and one-half (2½) years.

Section 9. During the term of this Agreement, a committee consisting of representatives of the City and the Association shall meet diligently to explore mutually satisfactory improvements in the promotional examination procedures for all promotional examinations.

Section 10. Except as provided in Article XXV, Section 20 and its subsections, all routine vacancies below Grade FS9 shall be filled from existing eligibility lists, if a valid list exists.

Section 11. All copyrighted reference materials listed on the bibliography or used to formulate questions for a written exam shall have a copyright date of within ten (10) years of the date of the exam. All materials must be in print at the time the bibliography list comes out. The Department and the Association may agree on books with a copyright date older than ten years.

Section 12. On the day of the written examination, each applicant will be permitted to throw out five (5) questions of their choice. If in the event the applicant does not select a total of five (5) questions to be thrown out, the City shall automatically throw out up to a total of (5) five the last five (5) questions of the examination. The remaining 100 questions will be those graded and scored for the applicant. There will be no challenge to the examination process, even though employees will be allowed to review their own test questions and answers. All written exams shall be 105 questions in length, prior to the five (5) questions being thrown out.

The results of any Assessment Center shall not be subject to grievance or the Arbitration process, but may be subject to the protest procedure of Rule 9, sec. 7(c) of the Civil Service Commission Rules and Regulations.

Section 12a. The City will conduct an item analysis of the written examination in those instances where forty (40%) or more of the individuals taking the examination miss a question, said questions will be reviewed to determined that the key was properly scored and the proper stem was selected for that answer. If corrections are appropriate then the stem will be corrected, and the scores will be adjusted accordingly.

~~Section 13. In order for a Fire Paramedic to be eligible to take a promotional exam for Fire Lieutenant, the employee must serve as a FS2 for two and one-half (2 ½) years prior to taking the promotional exam and meet the following criteria:~~

~~(a) Successful completion of a strategy and tactics, and supervision course~~

~~from an accredited college, university or state recognized institution.~~

~~(b) Texas Commission on Fire Protection Certification as a Fire Officer I.~~

~~In order for a Medical Lieutenant to be eligible to take a promotional exam for Fire Captain, the employee must serve as a FS4 for two and one-half (2 ½) years prior to taking the promotional exam and meet the following criteria:~~

~~(a) Successful completion of a strategy and tactics, and supervision course~~

~~from an accredited college, university or state recognized institution.~~

~~(b) Texas Commission on Fire Protection Certification as a Fire Officer I.~~

~~(c) Texas Commission on Fire Protection Certification as a Fire Instructor I.~~

~~(d) Texas Commission on Fire Protection Certification as a Fire Instructor II.~~

Section 14. Upon receipt of a requisition to fill the vacancy of a uniformed position, the highest name on the proper eligible list shall be certified for the vacancy. If more than one vacancy exists, then the next highest name on the eligible list will also be certified for each additional vacancy. All persons on a certification list will be interviewed and considered for the uniformed position. The Fire Chief retains the right to non-select any person on the certification list and request that the next highest name on the eligible list be certified in accordance with the Civil Service Rules and Regulations.

Section 15. An employee on an eligibility list who is passed over for selection will be provided a written reason for non-selection. A pass over is defined as the appointing authority selecting someone who is ranked lower on the eligibility list than the employee who is passed over. A pass over does not include an employee who submits a waiver prior to the appointing authority’s announcement of its selection.

Section 15a. An employee on an eligibility list who is passed over for selection a second time to the rank of Battalion Chief or above may appeal the appointing authority’s decision to an arbitrator. The appeal must be submitted within 10 working days of notification of non-selection. Within 10 working days of receipt of written notice from Local 51 of the intent to appeal, the City and Local 51 shall select a local arbitrator. If Local 51 and the City cannot agree on an arbitrator, then the Parties shall request that the Texas Arbitration Mediation Services submit a list of seven (7) arbitrators. Within ten (10) working days after receipt of the list of arbitrators, each party shall alternate in striking a name from the list until only one name remains. The remaining arbitrator shall act as the arbitrator and hear the appeal. The fee and expenses of the arbitrator shall be borne equally by the City and the Association. The standard of review for the appeal is arbitrary and capricious. The decision of the arbitrator is binding on all parties and is not appealable.

Section 15b. An employee on an eligibility list who is passed over for selection a third time to the rank of Captain or below may appeal the appointing authority’s decision to an arbitrator. The appeal must be submitted within 10 working days of notification of non-selection. Within 10 working days of receipt of written notice from Local 51 of the intent to appeal, the City and Local 51 shall select a local arbitrator. If Local 51 and the City cannot agree on an arbitrator, then the Parties shall request that the Texas Arbitration Mediation Services submit a list of seven (7) arbitrators. Within ten (10) working days after receipt of the list of arbitrators, each party shall alternate in striking a name from the list until only one name remains. The remaining arbitrator shall act as the arbitrator and hear the appeal. The fee and expenses of the arbitrator shall be borne equally by the City and the Association. The standard of review for the appeal is arbitrary and capricious. The decision of the arbitrator is binding on all parties and is not appealable.

Section 16. Removal from Eligibility List on Account of Non-selection. An employee who is on an eligibility list and is passed over for appointment five times will be removed from the eligibility list.