

Meet and Confer Agreement

between

The City of New Braunfels

and

New Braunfels Professional Fire

Fighters Association, IAFF Local 3845

Effective October 1, 2019

Amendment Dates:

October 25, 2021 (120-day extension)

January 24, 2022

August 28, 2023

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DEFINITIONS

1. "Agreement" means the Meet and Confer Agreement entered between the New Braunfels Professional Fire Fighters Association and the City of New Braunfels.
2. "Association" means the New Braunfels Professional Fire Fighters Association, (IAFF Local 3845), its elected leaders and its collective membership.
3. "City" means the City of New Braunfels, its mayor, city council members, city manager, fire chief and those persons designated by the City of New Braunfels to manage the city and its fire department.
4. "Commission" means the City of New Braunfels Firefighters' and Police Officers' Civil Service Commission.
5. "Composite Score" means the sum of a passing written score plus the Assessment Center score but excludes seniority and education points.
6. "Day" or "days" shall mean calendar days unless otherwise specified.
7. "Department" means the New Braunfels Fire Department.
8. "Department head" means the Chief of the New Braunfels Fire Department, his or her designee, or an acting Chief of the New Braunfels Fire Department.
9. "Director" means the Director of the City of New Braunfels Firefighters' and Police Officers' Civil Service Commission.
10. "Education Points" means those points earned based on the highest level of education completed, in accordance with the following: 1 point for an Associate's degree, 2 points for a Bachelor's degree, 3 points for a Master's degree or Doctorate degree.
11. "Firefighter" means a firefighter employed by the Fire Department by the City of New Braunfels.
12. "Local rules" means the Local Rules and Regulations promulgated by the City of New Braunfels Firefighters' and Police Officers' Civil Service Commission.

13. "Parties" means the City of New Braunfels and the New Braunfels Professional Fire Fighters Association and "Party" means the City of New Braunfels or the New Braunfels Professional Fire Fighters Association.
14. "Seniority Points" means 1 point for every whole year served in the same rank within the New Braunfels Fire Department, not to exceed 10 seniority points.
15. "Written examination" means the written examination provided for under Chapter 143 of the Texas Local Government Code and does not mean any written part of the Assessment Center.

ARTICLE 1

PARTIES AND PURPOSE OF MEET AND CONFER

The Parties to this Agreement are the CITY OF NEW BRAUNFELS, TEXAS, a home rule municipality organized under Texas law and the NEW BRAUNFELS PROFESSIONAL FIRE FIGHTERS ASSOCIATION, LOCAL NO. 3845, INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS.

It is the intent and purpose of the Meet and Confer negotiations and this Agreement, entered into by and between the CITY OF NEW BRAUNFELS, and the NEW BRAUNFELS PROFESSIONAL FIRE FIGHTERS ASSOCIATION, LOCAL NO. 3845, to achieve and maintain harmonious relations between the Parties related to the hiring and promotional practices in accordance with Subchapter C of 142 Texas Local Government Code and not deny local control by the City except as provided by this Agreement.

ARTICLE 2

RECOGNITION

The CITY OF NEW BRAUNFELS recognizes the NEW BRAUNFELS PROFESSIONAL FIRE FIGHTERS ASSOCIATION, LOCAL NO. 3845, as the sole and exclusive bargaining agent for the covered firefighters described in the petition for recognition, excluding the head of the Fire Department and excluding the employees exempt under Subsection (b), in accordance with subchapter C of Chapter 142 of the Texas Local Government Code. The Parties understand and agree the provisions of this Agreement do not extend to employees outside of the Department.

ARTICLE 3

HIRING

Section 1. Age Requirements for Entry-Level Firefighter

The parties recognize the need to increase the maximum age limit for an entry level position in order to improve the pool of potential candidates in the selection process. An applicant for entry-level firefighter must not have reached their 40th birthday as of the date of the written examination.

Section 2. Interview Board

Once an applicant has successfully completed the application, written exam, and physical agility portions of the entry-level process and met all suitability factors, the applicant must go before an Interview Board. The Board will be made up of two Firefighters, two Engineers, and one Company Officer (any rank below that of Battalion Chief/Division Chief). In order to pass this part of the hiring process, the applicant must receive at least a supermajority vote of confidence. A supermajority means a simple majority plus one. All recommendations for disqualification must be reviewed and approved by the Department Head prior to disqualification.

Section 3. Paramedic Certification Credit

Applicants who possess certification as a paramedic by the Texas Department of State Health Services will receive a total of 5 points added to the overall passing score.

Section 4. Candidate Physical Agility Scores

The Physical Agility Testing will add up to twenty points of the candidate’s overall score, with the written examination constituting up to 100 points. The breakdown of awarded points with time breaks is as follows:

TIME	POINTS AWARDED
2:29 >	20
2:30-2:59	15
3:00-3:29	10
3:30-4:00	5
4:01-5:00 (Passing)	0

Section 5. Reappointment After Resignation

- (a) A classified employee who voluntarily resigns from the Department and meets the eligibility requirements for a vacant position may be reappointed as a Fire Fighter with the Department without taking another entrance examination or being placed on an Eligibility List. Reappointment of a classified employee is totally at the discretion of the Department Head.
- (b) The former employee shall submit a written request to be reappointed to the Department Head, who makes the final recommendation to the City Manager for reappointment. A candidate for reappointment shall not be considered unless recommended by the Department Head. A candidate for reappointment may not appeal his/her rejection.
- (c) Prior to recommending reappointment of a former classified employee to the Department, the Department Head may review past performance records of the candidate, conduct a background investigation, require appropriate pre-employment tests and require any other portion of the employment process he/she deems appropriate.
- (d) Upon receiving a conditional offer of reappointment, the candidate shall pass a drug test and a physical examination prescribed by the City.
- (e) A candidate for reappointment shall fully meet the requirements of the Texas Commission on Fire Protection Personnel Standards and Education and Section 143.023 Eligibility for Beginning Position.
- (f) A candidate for reappointment may be appointed regardless of the availability of a list of eligible candidates. A candidate for reappointment has priority over candidates on a list of eligible candidates.
- (g) In addition to the reasons for rejection listed in Section 143.023, a candidate for reappointment may be rejected for reasons related to previous work performance with the City.
- (h) Prior service shall not count toward service for promotional eligibility.
- (i) Any candidate reinstated shall not be credited with accrued sick leave or vacation. The candidate's years of prior service shall not count for determining vacation eligibility and accrual rate.
- (j) The candidate's years of prior service will not be counted towards determining placement in the salary step system.
- (k) Age limitations provided under Section 143.023(c) of the Local Government Code do not apply to reappointments; however, applicants for reappointment must not have reached their 40th birthday as of the date the written request for reappointment is received by the City.

Section 6. Certification Requirements for Entry-Level Firefighter

In order to improve the pool of potential candidates for entry-level firefighter, the parties recognize the need to increase the time frame to obtain minimum certifications as a Basic Firefighter and Basic Emergency Medical Technician (referred in this section as “required certifications”), from date of written examination to date of conditional job offer. In addition to meeting all other minimum eligibility requirements and suitability factors required by the Commission and state law to take the written exam, applicants must be certified as a Basic Firefighter, or certifiable, as established by the Texas Commission on Fire Protection (TCFP) AND must be certified as EMT-basic or higher, or certifiable, by the Texas Department of Health and Human Services. Certifiable means that the Applicants will be required to show proof of enrollment as applicable: those that are currently enrolled in a DSHS approved EMT program or TCFP fire academy and those that have certifications from other states or national registry who are currently in the process of obtaining Texas certifications.

A candidate who is placed on an eligibility list, but has not received the required certifications at the time a vacancy occurs, will not receive a conditional job offer and will be passed over for appointment by the Department Head, but they will remain on the eligibility list until: (1) they are no longer enrolled in a DSHS approved EMT program or TCFP fire academy, (2) they are not currently awaiting receipt of the required certifications, or (3) the eligibility list expires. If another vacancy arises, and the passed over candidate has obtained the required certifications, the Department Head must make a conditional job offer to that previously passed over candidate before going down the list. If the candidate still does not have the required certifications, they will be passed over again. Any candidate who declines a conditional job offer will be removed from the eligibility list.

Section 7. Statutory Override

This article supersedes the following section of the Local Government Code: Section 143.023. This article preempts, to the extent of any conflict, all contrary state statutes, local ordinances, executive orders, civil service provisions, or rules adopted by the Department head or the Commission.

ARTICLE 4

PROMOTIONS

Section 1. Intent

In adopting this Article, the Parties agree to implement a promotional system using an Assessment Center component in addition to the written examination. The Parties believe adding an assessment component to the promotion process will improve the selection and provide promotional candidates a fair opportunity to display skills and abilities that serve as additional indicators that they will perform well in the position of Fire Lieutenant, Fire Captain or Battalion Chief/Division Chief. Applicants will be required to pass the written examination and participate in and complete all components of the assessment center before being placed on the eligibility list for promotion.

Section 2. Promotional Examination Procedure

- (a) The Commission shall adopt rules governing the promotional examination procedure and promotional eligibility lists in accordance with this Article and the Local Rules for the promotional positions of Fire Lieutenant, Fire Captain, and Battalion Chief/Division Chief. Further, the Commission may adopt rules to provide for the efficient administration of a promotional examination to eligible promotional candidates who are members of the armed forces serving on active military duty.
- (b) The written examination will be based upon no more than three (3) written source materials, determined by the Department and approved by the Commission. The notice of source materials and notice of promotional examination shall be posted no fewer than ninety (90) days prior to the examination. The 90-day promotional testing notice (written exam) is also applicable to the Engineer rank.
- (c) The promotional examination procedure will consist of two parts:
 - 1. a written examination, as defined in this article, consisting of one-hundred (100) multiple choice questions; and
 - 2. upon passing the written examination part of the promotional examination procedure, participation in and completion of all components of the Assessment Center.

Section 3. Written Examination

- (a) The promotional candidate's score on the written examination shall constitute the candidate's "written score". The minimum passing score on the written examination is seventy percent (70%). Promotional candidates who do not pass the written examination shall be eliminated from participation in the Assessment Center. This includes candidates on active military duty. A passing written score for Fire Department promotional candidates is a grade of 70 or higher before any additional points, as applicable, are added as provided in Section 143.033 Promotional Examination Grades.
- (b) For a promotional candidate applying for the Fire Lieutenant classification, seventy percent (70%) of a promotional candidate's composite score will be based on the written score.
- (c) For a promotional candidate applying for the Fire Captain classification, sixty percent (60%) of a promotional candidate's composite score will be based on the written score.
- (d) For a promotional candidate applying for the Battalion Chief/Division Chief classification, fifty percent (50%) of a promotional candidate's composite score will be based on the written score.

Section 4. Assessment Center

- (a) Except for candidates on active military duty at the time of the written examination or Assessment Center, all candidates that receive a passing score on the written examination will advance to the Assessment Center. If a promotional candidate will be on active military duty on the date(s) of the scheduled Assessment Center, the candidate will not be required to participate in the Assessment Center. The candidate's written score shall account for one-hundred percent (100%) of the candidate's final score. If the candidate passes with a minimum of 70%, then the candidate's written score, after adding in seniority points and education points, shall account for one-hundred percent (100%) of the candidate's final score.
- (b) For a promotional candidate applying for the Fire Lieutenant classification, thirty percent (30%) of a promotional candidate's composite score will be based on an Assessment Center.
- (c) For a promotional candidate applying for the Fire Captain classification, forty percent (40%) of a promotional candidate's composite score will be based on an Assessment Center.
- (d) For a promotional candidate applying for the Battalion Chief/Division Chief classification, fifty (50%) percent of a promotional candidate's composite score will be based on an Assessment Center.

Section 5. Procedure for Making Promotional Appointments

- (a) Reset of Seniority Points. For the purpose of promotional examination grades, seniority points will be accrued by certified firefighters at a rate of 1 point for every whole year served in that same rank within the New Braunfels Fire Department, not to exceed 10 seniority points. Each full year of service equals one (1) point. Seniority points will not be awarded for years of part-time employment. Under the provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994, military service shall not be considered a break in service. Upon promotion to a higher rank, seniority points will reset to zero points. For the purpose of tie-breakers, seniority points will be awarded in accordance with the local civil service rules.
- (b) For promotional candidates applying for the Fire Lieutenant classification, the final score to be placed on the eligibility list for each candidate shall be computed by taking the candidate's written score and multiplying the written score by .70 to account for seventy percent (70%) of the candidate's composite score; by taking the candidate's Assessment Center score and multiplying that score by .30 to account for thirty percent (30%) of the composite score; by adding the products together to equal the composite score; and by adding any applicable seniority points, not to exceed ten (10) points, and education points, not to exceed three (3) points, to the composite score to compute the final score (see below). Only a candidate that successfully passes the written examination will have seniority points and education points added to the composite score.

$(\text{Passing Score on Written Examination} \times 70\%) + (\text{Assessment Center Score} \times 30\%) = \text{Composite Score}$

$\text{Composite Score} + \text{Seniority Points} + \text{Education Points} = \text{Final Score} *$

* The Parties mutually agree that the Seniority Points shall be calculated at their accrued value through the day of the written examination.

- (c) For promotional candidates applying for the Fire Captain classification, the final score to be placed on the eligibility list for each candidate shall be computed by taking the candidate's written score and multiplying the written score by .60 to account for sixty percent (60%) of the candidate's composite score; by taking the candidate's Assessment Center score and multiplying that score by .40 to account for forty percent (40%) of the composite score; by adding the products together to equal the composite score; and by adding any applicable seniority points, not to exceed ten (10) seniority points, and education points, not to exceed three (3) points, to the composite score to compute the final score (see below). Only a candidate that successfully passes the written examination will have seniority points and education points added to the composite score.

$(\text{Passing Score on Written Examination} \times 60\%) + (\text{Assessment Center Score} \times 40\%) = \text{Composite Score}$

$\text{Composite Score} + \text{Seniority Points} + \text{Education Points} = \text{Final Score} *$

* The Parties agree that the Seniority Points shall be calculated at the accrued value through the day of the written examination.

- (d) For promotional candidates applying for the Battalion Chief/Division Chief classification, the final score to be placed on the eligibility list for each candidate shall be computed by taking the candidate's written score and multiplying the written score by .50 to account for fifty percent (50%) of the candidate's composite score; by taking the candidate's Assessment Center score and multiplying that score by .50 to account for fifty percent (50%) of the composite score; by adding the products together to equal the composite score; and by adding any applicable seniority points, not to exceed ten (10) seniority points, and education points, not to exceed three (3) points, to the composite score to compute the final score (see below). Only a candidate that successfully passes the written examination will have seniority points and education points added to the composite score.

$(\text{Passing Score on Written Examination} \times 50\%) + (\text{Assessment Center Score} \times 50\%) = \text{Composite Score}$

$\text{Composite Score} + \text{Seniority Points} + \text{Education Points} = \text{Final Score} *$

* The Parties agree that the Seniority Points shall be calculated at the accrued value through the day of the written examination.

- (e) For promotional candidates applying for the Fire Engineer classification, the final score to be placed on the eligibility list for each candidate shall be computed by taking the candidate's written score, and adding any applicable seniority points, not to exceed ten (10) seniority points, and education points, not to exceed three (3) education points, to compute the final score (see below). Only a candidate that successfully passes the written examination will have seniority and education points added to the composite score. Promotional candidates applying for the Fire Engineer classification will not complete an Assessment Center.

$\text{Written Score} + \text{Seniority Points} + \text{Education Points} = \text{Final Score} *$

* The Parties agree that the Seniority Points shall be calculated at the accrued value through the day of the written examination.

Section 6. Promotional Examination Assessment Center Criteria

- (a) The Assessment Center shall be administered by a consultant independent of the Department and the City. The City will contract with the consultant to design and administer an Assessment Center promotional process for the Department according to the prerequisites of this Article. The consultant is responsible for the preparation and security of each promotional Assessment Center.
- (b) The consultant shall be an individual or company with proven expertise in the field of administering the entire Assessment Center process. The consultant will be mutually agreed upon by the Department Head and Director.
- (c) The consultant will develop no fewer than three exercises for the Assessment Center that test the candidate's possession of the seven dimensions listed below and must include at least one Fire Ground Tactical Scenario:

1. **Problem Solving/Decision Making**
2. **Planning and Organization**
3. **Oral Communication**
4. **Leadership/Supervision**
5. **Adaptability**
6. **Interpersonal Skills**
7. **Written Communication Skills**

It is understood that not all dimensions listed above may be tested in an exercise.

- (d) The consultant will make available at least two (2) separate orientation sessions covering the same material to explain the Assessment Center Process, no fewer than seven (7) days prior to the first day that the Assessment Center is convened. Any candidate who took the test will be invited and encouraged to attend. The orientations will provide information, examples, and explanations on all aspects of the Assessment Center Process.
- (e) The consultant will select as many assessors as it requires within the following guidelines. In this section, Fire Officer shall refer to any firefighter holding the rank of Fire Lieutenant or higher.

1. Assessors selected must have at least 4 years of experience in any of the following areas: Personnel Administration; Behavioral Science; Fire Administration and Operations; and Fire Ground Command and Tactics.
2. There must be at least two (2) certified Fire Officer Assessors for every one (1) Civilian Assessor appointed by the consultant.
3. All certified Fire Officer members of the Assessor board shall be of any rank equal to or higher than the position sought.
4. Prior to the commencement of the Assessment Center, each Assessor will certify by a signed and witnessed affidavit that he or she has not talked to or corresponded with, and will not talk to or correspond with, ANY PERSON about any candidate's abilities, personality, or qualifications for promotion, until Assessment Center scoring is completed.

Section 7. Review and Appeal of Promotional Examination

- (a) Beginning on the first business day following the examination date, a promotional candidate may review his/her examination booklet, his/her answer sheet, the answer key, and the source material for the examination only in the presence of a monitor(s) designated by the Civil Service Director. The candidate is not allowed to document, make a picture image of and/or make any notes from any part of the examination documents. The period of review of test materials as described above extends to the time of the Civil Service Commission appeal hearing. The five (5) business day period within which to appeal contained in the Local Government Code, Chapter 143, and the local civil service rules remains applicable.

Section 8. Appointment and Removal of Assistant Chief

- (a) Intent.
In adopting this Article, the Parties agree that the Department Head shall be able to appoint each person occupying the classification immediately below that of Department Head and above that of Battalion Chief/Division Chief.

- (b) Requirements.

A Person appointed to a position in the classification immediately below that of the Department Head and above Battalion Chief/Division Chief must:

- i. Be employed by the municipality of the Department;
- ii. Have a permanent classification in at least an officer level; and
- iii. Meet the requirements for appointment as head of a fire department prescribed by Section 143.013(b).

(c) Appointment.

- i. A person appointed under this Article serves at the pleasure of the Department Head. A person who is removed from the position by the Department Head shall be reinstated in the Department and placed in the same classification, or its equivalent, that the person held before appointment. The person retains all rights of seniority in the Department.
- ii. If a person appointed under this Article is charged with an offense in violation of civil service rules and is indefinitely suspended by the Department Head, the person has the same rights and privileged of a hearing before the Commission in the same manner and under the same conditions as a classified employee. If the Commission, a hearing examiner, or a court of competent jurisdiction finds the charges to be untrue or unfounded, the person shall immediately be restored to the same classification, or its equivalent, that the person held before appointment to the rank of Assistant Chief. The person has all the rights and privileges of the prior position according to seniority and shall be repaid for any lost wages.

Section 9. Statutory Override

This article supersedes the following sections of the Local Government Code: Section 143.033(b) since this contract resets the accrual of seniority points to zero upon promotion to a higher rank within the New Braunfels Fire Department; Section 143.034 is also superseded by this agreement. The agreement does not alter the time in which to file an appeal with the Commission, which is five (5) business days under 143.034(a), but rather this Agreement extends the time for a candidate to review test materials from after the test until the time of the appeal hearing.

ARTICLE 5

ALTERNATIVE DISCIPLINARY PROCESS FOR MINOR INCIDENTS

Section 1. Scope and Process

This section allows for an alternative disciplinary process that will apply only to cases involving minor misconduct as determined at the sole discretion of the Department Head. The Department Head must determine that the misconduct does not warrant a disciplinary suspension in excess of 72 hours without pay or benefits. Upon the Department Head determining that the misconduct is minor, the employee will be notified and may agree to proceed under this Article. If the employee agrees to proceed under Article 5, the employee must indicate agreement in writing that they voluntarily accept the proposed discipline, and voluntarily waive their rights to an internal investigation, pre-disciplinary hearing, and all respective rights to appeal or otherwise challenge the allegations specified by the Department Head, and further waive any rights provided under the Texas Local Government Code Chapter 143 (Civil Service), the City's Personnel Policy, to any District Court, or any other applicable appeal procedure.

This section does not apply to disciplinary suspensions without pay or benefits that exceed 72 hours. Further, this section shall not apply if not agreed upon by both the Department Head and the employee.

The suspended employee may forfeit vacation time as allowed in Section 143.052 DISCIPLINARY SUSPENSIONS, paragraph (2) of the Local Rules and Regulations adopted by the City of New Braunfels Firefighters and Police Officers Civil Service Commission in lieu of time off.

ARTICLE 6

TERM OF AGREEMENT

Section 1. Term

This Agreement shall have an effective date of October 1, 2023 and shall remain in full force and effect through September 30, 2025. When the agreement expires, the parties will be governed by Chapter 143 of the Texas Local Government Code, unless replaced by a new Meet and Confer Agreement between the parties.

Section 2. Notice of Intent to Negotiate

Association shall provide to City written notice of intent to negotiate, pursuant to Section 2 of this Article, no later than May 15 of each year of the Agreement.

ARTICLE 7

SAVINGS CLAUSE AMENDMENT AND PREEMPTION PROVISION

Section 1. Savings Clause

If any provision of this Agreement is rendered invalid by a court of competent jurisdiction, such invalidity shall not affect any other provision of this Agreement, which shall continue to be in full force and effect for the duration of the Agreement, and the Parties shall meet as soon as possible to agree on a substitute provision. However, if the Parties are unable to agree within thirty (30) days following commencement of the initial meeting, then the matter shall be postponed until Meet and Confer negotiations are resumed. To this end, the provisions of this Agreement are severable. This Agreement may be amended by written mutual agreement.

Section 2. Preemption Provision

The provisions of this Agreement shall supersede the provisions of any statute, Executive Order, local ordinance, or rule, which are in conflict herewith, including for example and not by way of limitation, the contrary provisions of Chapter 143; Ordinances of the City of New Braunfels, Texas; and Rules and Regulations of the Firefighter's Civil Service Commission for the City of New Braunfels, Texas. This preemption provision is authorized by section 142.117 of the Texas Local Government Code, and the Parties have expressly agreed that each and every provision involving or creating such a conflict shall have the effect of superseding the statutory standard or result which would otherwise obtain, in the absence of this Agreement.

SIGNATURE & EXECUTION PAGE

THE FOREGOING INSTRUMENT HAS BEEN DULY NEGOTIATED, REVIEWED, AND APPROVED BY EACH OF THE SIGNATORIES INDICATED BELOW:

THE CITY OF NEW BRAUNFELS, TEXAS

(Amended Agreement approved by New Braunfels City Council on the 28th day of August, 2023)

By: *Robert Camareno*
Robert Camareno (Sep 8, 2023 10:25 CDT)
ROBERT CAMARENO
CITY MANAGER

Dated: 09/08/23

ATTEST:

Gayle Wilkinson

GAYLE WILKINSON
CITY SECRETARY

APPROVED:

Ruy Lozano

RUY LOZANO
FIRE CHIEF


APPROVED AS TO FORM:

Valeria M. Acevedo

VALERIA M. ACEVEDO
CITY ATTORNEY


**THE NEW BRAUNFELS PROFESSIONAL FIRE FIGHTERS ASSOCIATION,
IAFF, LOCAL #3845**

(Ratified by NBPFFA Membership on the 22nd day of September, 2023)

By: 
James T. Sellers (Sep 21, 2023 17:23 CDT)

Dated: 09/21/23

PRESIDENT, NBPFFA - IAFF LOCAL #3845

By: 
Dustin M. [unclear] (Sep 22, 2023 14:05 CDT)

Dated: 09/22/23

SECRETARY, NBPFFA – IAFF LOCAL #3845