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POL 6781

**AGREEMENT  
BETWEEN  
CITY OF ELMIRA**

**AND**

**POLICE BENEVOLENT ASSOCIATION  
OF ELMIRA, NEW YORK, INC.**

**JANUARY 1, 2004 – DECEMBER 31, 2006**

**RECEIVED**

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**NYS PUBLIC EMPLOYMENT  
RELATIONS BOARD**

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THIS AGREEMENT, entered into on this \_\_\_ day of \_\_\_\_\_, 2005 by and between the CITY OF ELMIRA, NEW YORK (hereinafter referred to as the "City") and the POLICE BENEVOLENT ASSOCIATION OF ELMIRA, NEW YORK, INC., (hereinafter referred to as the "Association").

## ARTICLE 1 - THE COLLECTIVE BARGAINING UNIT

### § 1.1 Unit defined.

The appropriate collective bargaining unit covered by this Agreement shall be all full-time sworn law enforcement officers (hereinafter referred to collectively as "members" of the bargaining unit, or, individually, as a "member" of the bargaining unit), employed in the Police Department of the City (hereinafter referred to as the "Department"), with the exception of the Chief of the Department (hereinafter referred to as the "Chief") and the Deputy Chiefs of the Department (hereinafter referred to as the "Deputy Chief").

## ARTICLE 2 - ASSOCIATION AFFIRMATION AND NO STRIKE AGREEMENT

### § 2.1 No strike provision.

(a) Pursuant to Section 207(3) of the New York State Civil Service Law (hereinafter referred to as the "Civil Service Law"), the Association hereby affirms that it does not assert the right to strike against any government, to assist or participate in any such strike, or to impose an obligation to conduct, assist or participate in any such strike.

(b) The Association agrees that, in accordance with applicable law, neither the Association, nor any member of the bargaining unit, shall induce or engage in any strikes.

## ARTICLE 3 - ASSOCIATION RECOGNITION

### § 3.1 Recognition.

In accordance with Sections 204 and 208 of the Civil Service Law, the City recognizes the collective bargaining representative, with appropriate unchallenged representation status, for all members of the bargaining unit, for purposes of collective negotiations with respect to wages, hours of employment, grievances and other terms and conditions of employment.

## ARTICLE 4 - AGENCY SHOP

### § 4.1 Agency shop.

The City shall recognize the form of union security known, in accordance with the Civil Service Law, as the "agency shop."

### § 4.2 Payroll deduction.

Any member of the bargaining unit who does not make application for membership in the Association within thirty (30) days after the member's appointment, and any Association member who, during the term of this Agreement, is removed from membership in the Association, shall, as a condition of employment, have deducted from the member's bi-weekly wage, for payment to the Association by the City, an amount of money to be called the "agency shop fee" equal to the regular Association bi-weekly dues, as a contribution towards the administration of this Agreement.

### § 4.3 Refund procedure.

The Association shall establish and maintain a procedure providing for the refund to any member demanding the return of any part of an agency shop fee which represents the member's pro rata share of expenditures by the Association in aid of activities or causes of a political or ideological nature only incidentally related to terms and conditions of employment.

### § 4.4 Membership not required.

Nothing herein shall be deemed to require a member to become an Association member.

## ARTICLE 5 – MANAGEMENT RIGHTS

### § 5.1 Management rights.

The City retains the sole right to manage its business and services and to direct the police force, including the right to decide the number and location of its services and operations, services and operations to be conducted and rendered, and the methods, processes and means used in operating its services, and the control of the buildings, real estate, materials and all equipment which may be used in the operation in supplying its services; to determine whether and to what extent the work required in its operations and services shall be performed by employees covered by this Agreement.

In addition to any legal rights the City may have, it shall have the right and ability to exercise control and discretion to hire, suspend, layoff, assign, promote, demote, classify and reclassify, or transfer employees to any job to any work within the Police Department's jurisdiction. The City shall determine the size of the work force, make

reasonable work rules for the purposes of efficiency, safe practices and discipline, to determine equipment used, to make technological changes, to determine the number and locations of its offices within the City limits.

These rights as set forth do not abridge any current rights as set forth in this Collective Bargaining Agreement.

§ 5.2 Minimum staffing.

The parties acknowledge and agree that the City of Elmira ("City") has the unilateral right to set daily minimum staffing levels for all components of the Elmira Police Department.

Before any change in the daily minimum staffing level, the Chief will notify the Association in writing of such change at least thirty (30) calendar days prior to commencement of the change except in an emergency.

If the Association objects to or wishes to discuss the change, it will notify the Chief in writing within ten (10) days of receipt of the written notice set forth above. The Chief will meet with the Association within five (5) business days of receipt of such notice to attempt to resolve any differences regarding the change.

If the Chief and the Association are unable to resolve any differences relative to the change in minimum staffing, the change will occur as ordered by the Chief. In that event, the Association shall have the right to commence impact bargaining. Impact bargaining will be in accordance with the Taylor Law.

The Chief shall continue to have the right to unilaterally increase daily minimum staffing without notice on a temporary or short-term basis when in the judgment of the Chief it is necessary or appropriate to do so for the security of the City.

ARTICLE 6 – NO DISCRIMINATION

§ 6.1 No discrimination

It is the continuing policy of the parties that this Agreement shall be applied to all members of the bargaining unit without regard to race, color religious creed, national origin, age, sex or membership in the Association.

§ 6.2 Non-discriminatory policies.

The parties recognize the importance of avoiding policies, which would tend to discriminate against minorities and women in seeking employment with the Department.

§ 6.3 Joint effort.

The Association agrees to assist the City in establishing and carrying out programs, which are designed to prevent discrimination.

§ 6.4 Affirmative Action Program.

To this end, the Association agrees to assist the City in administering the Affirmative Action Program of the City by, among other things, participating in all meetings conducted by the City in connection with the Affirmative Action Program of the City, and the City agrees to inform the Association of any such meetings, and to invite the Association to attend and participate in any such meetings.

§ 6.5 Performance of duties not affected.

The parties agree that any programs which are designed to prevent discrimination will be developed and administered in a manner which will not affect the ability of the members to professionally perform the members' duties as qualified and well-trained sworn law enforcement officers.

ARTICLE 7 – CLASSIFICATIONS

§ 7.1 Police Officer.

Members of the bargaining unit shall be classified, for the payment of wages, seniority and other purposes, as follows:

- |                    |                      |
|--------------------|----------------------|
| (a) Police Officer | Starting             |
| (b) Police Officer | 2 <sup>nd</sup> Yr.  |
| (c) Police Officer | 3 <sup>rd</sup> Yr.  |
| (d) Police Officer | 4 <sup>th</sup> Yr.  |
| (e) Police Officer | 5 <sup>th</sup> Yr.  |
| (f) Police Officer | 10 <sup>th</sup> Yr. |
| (g) Police Officer | 12 <sup>th</sup> Yr. |
| (h) Police Officer | 14 <sup>th</sup> Yr. |
| (i) Police Officer | 20 <sup>th</sup> Yr. |

The foregoing classifications may be referred to individually, or collectively, hereinafter, by the general term "Police Officer."

§ 7.2 Ranking Officer.

Members of the bargaining unit shall be classified, for the payment of wages, seniority and other purposes, as follows:

- (a) Sergeant
- (b) Lieutenant
- (c) Captain

The foregoing classifications may be referred to individually, or collectively, hereinafter, by the general term "Ranking Officer."

ARTICLE 8 – SENIORITY

§ 8.1 Police Officer seniority defined.

Seniority for members of the bargaining unit employed in the classification of Police Officer shall be computed, and accrue, from the date of the respective member's original appointment. In the event that two or more members are originally appointed on the same day, their seniority shall be determined on the basis of the order in which their names appeared on the eligibility list from which their appointment was originally made, with the member enjoying a higher standing on the eligibility list having the higher seniority.

§ 8.2 Ranking Officer seniority defined.

Seniority for members employed in the classification of Ranking Officer shall be computed, and accrue, from the date of the member's permanent promotion in rank.

§ 8.3 Continuous seniority.

A member's seniority shall not be reduced because of a break in continuous service due to illness, injury or authorized leave of absence.

§ 8.4 Annual seniority list prepared.

The City shall prepare a seniority list by January 1<sup>st</sup> for each calendar year of this Agreement and shall post the seniority list on the Department bulletin boards. The City shall provide the Secretary of the Association with a copy of the seniority list. The City and the Association shall have thirty (30) days from the posting of the seniority list on the Department bulletin board within which to notify the other of any changes which should be made with regard to the posted seniority list.

## ARTICLE 9 – HOURS OF WORK

### § 9.1 Work hours.

The basic workday for members of the bargaining unit employed in the classification of Police Officer shall be comprised of tours of duty, consisting of eight (8) hours each, by platoons, as follows:

First Tour of Duty	11:00 PM to 7:00 AM
Second Tour of Duty	7:00 AM to 3:00 PM
Third Tour of Duty	3:00 PM to 11:00 PM

### § 9.2 Special shift assignments.

(a) A non-rotating fourth tour of duty, to be known as the “special shift,” shall be staffed by no more than eight (8) Police Officers.

(b) The members of the special shift may be scheduled by the Chief for any continuous eight (8) or ten (10) hour work shift within a twenty-four (24) hour period. The Chief reserves the right to change the special shift’s work schedule upon thirty (30) days’ written notice to the special shift members and the Association. Any such change in the special shift’s work schedule must be maintained for at least sixty (60) days, unless the special shift members agree to make changes sooner.

(c) Assignments to the special shift shall be made for one (1) calendar year at a time on a voluntary basis. If an insufficient number of volunteers are available, the number of unfilled slots will be filled by the least senior police officers.

(d) The regular work hours for members of the special shift shall be determined by the City at its sole discretion, but shall not exceed forty (40) hours per week on the basis of either five (5) tours of duty consisting of eight (8) hours each within a twenty-four (24) hour period or four (4) tours of duty consisting of ten (10) hours each within a twenty-four (24) hour period. Assignment slots on the special shift will be filled on the basis of seniority. If a 4/10 work schedule is offered by the City, the paid time off benefits granted in this Agreement will be based on an hour-for-hour conversion system (Vacation, sick leave, and holiday leave accruals are based on an eight (8) hour day. For example, under 5/8 work schedule, a first year police officer would have 80 hours (10 days) of vacation, 100 hours of holiday leave (12.5 days), and 480 hours (60 days) of sick leave. Under a 4/10 schedule, the same officer would have 80 hours (8 days) of vacation, 100 hours of holiday leave (10 days), and 480 hours (48 days) of sick leave-), except for absences in accordance with Articles 19 and 20 of this Agreement.

(e) The days off available for a 5/8 work schedule shall be two (2) consecutive days, Monday through Thursday, at the discretion of the Chief. The days off available for a

4/10 work schedule shall be three (3) consecutive days, Sunday through Thursday, at the discretion of the Chief.

(f) Members of the special shift may not schedule vacation time during the months of July and August.

(g) If a member's absence from duty on one of the three permanent shifts causes unacceptable personnel shortage on such permanent shift, the City may reassign a member of the special shift to such permanent shift, as follows:

1. Upon thirty (30) days written notice; or
2. Immediately, if a member of the special shift volunteers to be reassigned.

### § 9.3 Exceptions.

The basic workday described in §9.1 may be different for members employed in the classification of Ranking Officer, for members employed in certain bureaus of the Department, and members given special assignments such as Desk Officer.

### § 9.4 Work schedule for Patrol Supervisors (Sergeants, Lieutenants, Captains assigned to three patrol platoons)

Patrol Supervisors (i.e., Sergeants, Lieutenants, and Captains assigned to the three patrol platoons) of the Department will work a "5/2-5/2-5/3" schedule, that is, 5 days on duty, 2 days off; 5 days on duty, 2 days off; 5 days on duty, 3 days off. Once it goes into effect, this new schedule will supersede any prior schedule or practice relative to scheduling work days and days off. The Association acknowledges that this new schedule complies with the Fair Labor Standards Act and regulations and all other applicable Federal and State Laws or regulations.

There will be three (3) rotations of the 5/2-5/2-5/3 schedule. Said rotations having the result that there will be no days when only one Patrol Supervisor is on the regular work schedule and there will be approximately seventeen (17) days when all three (3) Patrol Supervisors are on the regular work schedule.

### § 9.5 Work day.

The City reserves the right to change the basic workday, for all members, as may be necessary, in the event of a strike, a riot, a conflagration, an occasion when large crowds shall assemble, a day on which an election authorized by law shall be held, or for some other emergency.



§ 9.6 Pre-shift briefings.

Ten (10) minute pre-shift briefings at time and one-half (1.5X) pay will be conducted for members assigned to tours of duty prior to the commencement of each tour of duty.

ARTICLE 10 – WORK SCHEDULE

§ 10.1 Work schedule provided.

(a) The Department shall prepare and provide the Association with the Work Schedule for the members of the bargaining unit, for each calendar year of this Agreement, no later than December 15 of the previous calendar year.

(b) The current days off availability, predicated on the fourteen (14) member platoon, will remain in effect. If the City, at its sole discretion, determines that more than fourteen (14) police officers shall be assigned to a permanent shift, the availability of days off shall be as follows:

1. For the fifteenth (15<sup>th</sup>), sixteenth (16<sup>th</sup>), and seventeenth (17<sup>th</sup>) member(s) assigned to a permanent shift, the days off available shall be a combination of two (2) consecutive days, Monday through Thursday, at the discretion of the Chief.

2. For the eighteenth (18<sup>th</sup>) member and above of a permanent shift, the days off available shall be a combination of two (2) consecutive days, Friday through Monday, at the discretion of the Chief.

§ 10.2 Procedure for work schedule.

(a) The members shall assist the Department in preparing the Work Schedule, by making a written selection as provided herein of days off, vacation days, and holidays, for each calendar year of this Agreement, no later than December 1 of the previous calendar year.

(b) Police Officers shall select days off, vacation days and holidays, according to seniority among Police Officers.

(c) Ranking Officers shall select days off, vacation days and holidays, according to seniority among Ranking Officers.

§ 10.3 Right to amend work schedule.

The Chief may amend, or otherwise change, the Work Schedule for any calendar year, at anytime, to insure the continued security of the community.

In addition to the provisions of Article 10, there shall be additional selections of days as follows:

- (a) For any vacancies occurring in the days off list between January 1<sup>st</sup> and March 25<sup>th</sup> of a calendar year, a new list of days off shall be circulated on March 25<sup>th</sup>, the days off selected to become effective as of April 1<sup>st</sup> of that year.
- (b) For any vacancies occurring in the days off list between March 25<sup>th</sup> and July 25<sup>th</sup> of any calendar year, a new list of days off shall be circulated on July 25<sup>th</sup> with the days off selected to become effective as of August 1<sup>st</sup> of that year.
- (c) Any vacancies in the days off list occurring after July 25<sup>th</sup> of any calendar year shall be selected pursuant to the provisions of Article 10.

§ 10.4 Personnel Levels, Platoons and Bureaus.

- (a) The position of Court Officer, as funded by the State of New York, Office of Court Administration, is hereby retained by the City.
- (b) The City will retain three (3) permanent patrol platoons consisting of fourteen (14) Police Officers.
- (c) The City will retain the positions of Captain, Lieutenant, and Sergeant for each of the permanent patrol platoons and the Detective Bureau and the position of Sergeant for the Traffic Bureau.
- (d) The Association hereby waives §10.4(c) of the Agreement to the extent that the provision requires the City to retain the position of Captain in the Detective Bureau.

The City at its sole option may convert the position of Captain in the Detective Bureau to a new management position to be chosen from among the sworn ranks of the Department. The title, duties, status, terms and condition of this new position will be determined solely by the City and the Chief of Police.

In the event the City chooses not to establish this new management position, the position of Captain in the Detective Bureau will remain in accordance with §10.4(c) of the Agreement.

In the event the City decides to eliminate the new position in the future, the position will revert back to the rank of Captain in an assignment mutually acceptable to the City and the Association. If this occurs, then the Captain's position will be within the Bargaining Unit.

- (e) The City will assign Police Dispatchers and the Communications Officer, if they volunteer and have sufficient seniority among themselves, to the two (2)

daytime special shift assignments (Monday through Friday, between the hours of 6:00AM and 6:00PM) and the one Court Officer position at such time as they cease to be employed in the dispatcher/communication officer assignments. The vacation scheduling restriction contained in Section 9.2(e) shall not be applicable to these two (2) daytime special shift assignments. The two (2) daytime special shift assignments shall continue to be made available for at least as long as the former Dispatcher/Communications Officers initially assigned remain employed with the City or until said Officers volunteer for other duty assignments.

## ARTICLE 11 – WAGES

### § 11.1 Wages for incumbent members.

All members of the bargaining unit who are employed during the period beginning January 1, 2004, and ending December 31, 2006, shall receive:

- (a) 3.0% wage increase effective 01/01/2004;
- (b) 3.0% wage increase effective 01/01/2005;
- (c) 3.0% wage increase effective 01/01/2006;

Wages to be paid are set forth in the Salary Schedule which is attached hereto as Appendix A, and made a part of this Agreement.

### § 11.2 Wages for a Police officer; starting.

(a) A member who is appointed after January 1, 2004, and during the term of this Agreement, shall be entitled, for every tour of duty actually worked, and effective as described herein, to the wage set forth in the Salary Schedule which is applicable to Police Officer-Starting.

### § 11.3 Annual increment for Police Officer; Second year.

(a) A member who has been employed for less than one continuous year as of January 1, 2005, and any member who is appointed after January 1, 2004, and during the term of this Agreement, shall be entitled, for every tour of duty actually worked, and effective as described herein, to the annual increment set forth in the Salary Schedule which is applicable to Police Officer – Second Year.

(b) The annual increment applicable to Police Officer- Second Year shall take effect and be paid beginning with the first payroll period after the January 1 first following the member's appointment.

(c) Thereafter, such a member shall be entitled to annual increments as set forth for Police Officer – Third Year, Police Officer – Fourth Year and Police Officer – Fifth Year, hereinbelow.

§ 11.4 Annual increments for Police Officer, Third year through Police Officer, Fifth year.

(a) A member who has been employed for less than five (5) continuous years, but for more than one (1) continuous year shall be entitled, for every tour of duty actually worked, and effective as described herein, to the next higher annual increment set forth in the Salary Schedule, up to and including the annual increment which is applicable to Police Officer – Fifth Year.

(b) The next higher annual increment shall take effect and be paid beginning with the first payroll period after January 1 in the respective calendar year during which the member, if thereafter continuously employed, would attain the requisite years of continuous employment to qualify for the appropriate annual increment.

§ 11.5 Longevity increment for Police Officers.

(a) A Police Officer who has been employed for five (5) continuous years or more shall be entitled for every tour of duty actually worked and effective as described herein, to the next higher longevity increment set forth in the Salary Schedule, up to and including the longevity increment which is applicable to Police Officer – Twenty Years.

(b) The next higher longevity increment shall take effect and be paid beginning with the first payroll period after January 1 in the respective calendar year during which the Police Officer, if thereafter continuously employed, would attain the requisite years of continuous employment to qualify for the appropriate longevity increment.

§ 11.6 Longevity increment for Ranking Officers.

(a) Longevity increments, in the amount of \$200.00 for Year 15 and Year 17 of service and \$500.00 for twenty (20) years of service, set forth in the Salary Schedule, shall be paid as of the first pay period following January 1 of the year in which the requisite number of years (15, 17, 20) will be attained, respectively, to Sergeants, Lieutenants, and Captains.

§ 11.7 Promotions.

(a) A member who is promoted shall be entitled, for every tour of duty actually worked and effective as described herein, to the wage set forth in the Salary Schedule which is applicable to the respective classifications to which the member is then promoted.

(b) A newly promoted member shall be paid the wage applicable to the respective classification to which the member is promoted, effective with the date of promotion, and such wage shall be paid beginning with the first payroll period after the date of promotion.

§ 11.8 Payment of Compensatory Time.

Upon completion of seventeen (17) years of Departmental service, a member may elect to have up to eighty (80) hours of accumulated compensatory time paid in a lump sum on an annual basis. Such payment, if elected shall be made by the City within sixty (60) days of the date of the member's written election. Such payments shall be calculated at the hourly rate of pay in effect at the time payment is requested.

ARTICLE 12 – PAY DAY AND CALCULATION OF PAY

§ 12.1 Calculation of Pay and Pay Day.

The bi-weekly rate of pay shall be determined by dividing the annual rate of pay listed in Appendix A of this Agreement by 26.

The members of the bargaining unit shall be paid on a bi-weekly basis and shall receive their pay on Thursday of the appropriate week, at approximately 9:00 A.M.

ARTICLE 13 – EMERGENCY COMPENSATION

§ 13.1 Extension of duty; compensation calculated.

If, due to a national war, a strike, a riot, a conflagration, a general or special election, a public celebration, a court appearance required in connection with the duties of a member of the bargaining unit, or for some other public emergency requiring a member to be on duty, a member is required by a Ranking Officer to remain on duty at the end of the member's tour of duty for a period of time in excess of one (1) hour, the member shall be compensated for the period of time that the member is required to remain on duty at the end of the member's tour of duty, at the rate of one and one-half (1.5X) of the wage set forth in the Salary Schedule which is applicable to the respective classification in which the member is then employed.

§ 13.2 Recall to duty; compensation calculated.

If, due to a national war, a strike, a riot, a conflagration, a general or special election, a public celebration, a court appearance required in connection with the duties of a member, or for some other public emergency requiring a member to be on duty, a

member is recalled by a Ranking Officer, or by subpoena, from off duty, the member shall be compensated, for the period of time that the member is recalled from off duty on account of the emergency and until the member is released following the emergency by a Ranking Officer, but in no event for less than three (3) hours, at the rate of one and one-half (1.5X) of the wage set forth in the Salary Schedule which is applicable to the respective classification in which the member is then employed.

§ 13.3 Time of compensation payment.

Emergency compensation, to which a member would be entitled as provided herein, shall be paid, after approval by the City Council, no later than the second (2<sup>nd</sup>) payroll period in the month immediately following the month during which the public emergency occurred.

§ 13.4 No duplicate payment.

There will be no pyramiding of overtime. Compensation shall not be paid more than once for the same hours worked under any provision of this Article or Agreement except that recall pay shall not be considered as pyramiding.

ARTICLE 14 – OUT-OF-TITLE COMPENSATION

§ 14.1 Out-of-title compensation described.

A member of the bargaining unit who, at the direction of the Chief or the Deputy Chief, performs out-of-title work shall be entitled to every tour of duty actually worked, the out-of-title compensation at the wage set forth in the Official Salary Schedule, which is applicable to the respective classification in which the member is performing out-of-title work.

(a) When a situation results in the vacancy of a supervisor position, the Chief or Deputy Chief will, within twenty-eight (28) days, determine if said vacancy shall result in the need for a temporary out-of-title assignment of a lower ranking officer. The Chief or Deputy Chief shall not be required to make an out-of-title assignment unless the vacancy of a supervisor position shall exceed twenty-eight (28) days. If the temporary out-of-title assignment is determined to be necessary, the Chief or Deputy Chief shall make such assignment without regard to any existing Civil Service list; and any such out-of-title assignment made after the expiration of twenty-eight (28) days, will be retroactive to the first day of vacancy for out-of-title compensation purposes, and the officer shall be paid at the out-of-title rate until the permanent assignment of another officer.

(b) No officer shall serve out-of-title work higher than one (1) rank above his/her current permanent rank.

(c) The assignment of personnel to out-of-title work shall remain at the sole discretion of the Chief or the Deputy Chief.

(a) Out-of-title work shall not include the following:

(1) When a member is covering for a higher ranking member, and the higher ranking member is on vacation, or

(2) When a member is covering for a higher ranking member, and the higher ranking member is on a scheduled day off.

§ 14.2 Payment in accordance with Article 12.

Out-of-title compensation shall be paid together with earned wages in accordance with Article 12 of this Agreement.

## ARTICLE 15 – VACATION

§ 15.1 Vacation entitlement.

(a) A newly appointed member of the bargaining unit who is hired between January 1 and June 30 of that calendar year shall receive five (5) vacation days to be used that calendar year. If hired after June 30, the member shall receive no vacation days that calendar year.

(b) In either case, a newly appointed member shall receive ten (10) days vacation during the second calendar year of employment.

(c) After completion of the second calendar year, the member shall be entitled to vacation pursuant to the following schedule:

Three (3) years	-	Twelve	(12) days
Five (5) years	-	Fifteen	(15) days
Six (6) years	-	Sixteen	(16) days
Seven (7) years	-	Seventeen	(17) days
Nine (9) years	-	Eighteen	(18) days
Ten (10) years	-	Twenty-one	(21) days
Fifteen (15) years	-	Twenty-three	(23) days

§ 15.2 Scheduling vacation.

Except as otherwise provided in §15.1, each member shall select, on or before December 1 during each calendar year of this Agreement, a vacation period, as provided herein, according to the member's respective seniority, for the following calendar year.

§ 15.3 Non-accumulation of vacation benefits.

Vacation benefits shall not accumulate year to year, but must be taken by all members, if at all, during each respective calendar year of this Agreement, and, if not taken during the respective calendar year, the vacation benefit shall lapse on December 31 of the respective calendar year, except as otherwise specifically provided in §15.4.

§ 15.4 Vacation Exceptions.

(a) If a member is unable to take a scheduled vacation within any calendar year of this Agreement due to injury or illness, a corresponding portion of the member's scheduled vacation which the member is thus unable to take shall be designated as vacation, in any event, for the sole purpose of protecting the sick leave benefits provided the member in Article 29 of this Agreement, provided, however, that the portion so designated as vacation shall not accumulate year to year, in accordance with §15.3.

(b) If, at the time a member's vacation is scheduled to begin, or, if while the member is on vacation, the member is hospitalized by an injury or illness incurred in the performance of duty, which, in the discretion of the Chief, precludes the member from taking the balance of the member's scheduled vacation, the member shall not be considered to be on vacation for the balance of the member's previously scheduled vacation, provided, however, that such a member's vacation shall not accumulate year to year, in accordance with §15.3.

§ 15.5 Withholding a scheduled vacation.

(a) The City reserves the right, in the event of a strike, a riot, a conflagration, an occasion when large crowds shall assemble, or some similar emergency, to withhold a scheduled vacation, or a portion of a scheduled vacation, from a member.

(b) Upon cessation of the emergency, as defined herein, a member from whom, during such emergency, a scheduled vacation, or a portion of a scheduled vacation, has been withheld, shall be entitled, within six months from the cessation of the emergency, but only while employed, to a leave of absence, with pay commensurate with the number of days of the scheduled vacation withheld.

ARTICLE 16 – HOLIDAYS

§ 16.1 Paid holidays.

(a) Each member of the bargaining unit shall be paid for twelve and one-half (12.5) holidays per year except as provided elsewhere herein; such holidays shall be designated as follows:



- |                                      |                                       |
|--------------------------------------|---------------------------------------|
| 1. New Year's Day                    | 7. Columbus Day                       |
| 2. Martin Luther King Jr.'s Birthday | 8. Veteran's Day                      |
| 3. President's Day                   | 9. Thanksgiving Day                   |
| 4. Memorial Day                      | 10. Day After Thanksgiving            |
| 5. Independence Day                  | 11. December 24 <sup>th</sup> - ½ day |
| 6. Labor Day                         | 12. Christmas Day                     |
|                                      | 13. Floating Holiday                  |

(b) The floating holiday shall be treated in the same manner as any other holiday.

§ 16.2 Payment in lieu of paid holiday.

Each member may elect to receive pay in lieu of taking holidays, unless, during the actual occurrence of any holiday, a member has been off duty for a period of time in excess of thirty (30) consecutive days during which the holiday occurred.

§ 16.3 No disqualification or denial of paid holiday.

No member shall be disqualified from or denied any holiday, if, at the time of the occurrence of such holiday, such member was off duty as a result of a regular day off, regular vacation or sickness for a period of less than thirty (30) consecutive days.

§ 16.4 Rate of holiday pay.

The rate of pay for the purpose of holiday pay shall be calculated at the rate of 1/10<sup>th</sup> of the bi-weekly salary for each holiday.

§ 16.5 Payment of holiday pay.

The holiday pay shall be paid in a lump sum on the first (1<sup>st</sup>) day in the month of December and shall be calculated at the pay step and bracket of each member at the time of payment.

§ 16.6 Time off in lieu of holiday pay.

(a) Time off shall be allowed to any member who so elects such time off in lieu of holiday pay and qualification for such time off shall be defined by the criteria set forth in §16.2 and §16.3. Days off for holidays will be scheduled by the Chief. Election of the option to accept holiday pay or time off shall be made by qualifying members prior to December 1<sup>st</sup> of each year.

(b) An amount of unused holiday pay, remuneration not to exceed the value of twenty (20) days, may be placed in an employee's account at the request of the employee. Reimbursement at the employee's current rate of pay will be made to

the employee, or in the case of death, to his/her estate, only when the employee permanently leaves the service of the City.

§ 16.7 Holidays during off duty period.

If a member has been off duty for a period of time in excess of thirty (30) consecutive days during which a holiday occurs, it shall be deemed that the member took the holiday and no payment in lieu will be granted for holiday so taken.

§ 16.8 Commencement of holiday benefit.

Members shall, during their first year of employment, be entitled to only those holidays, which occurred after their employment with the City, and qualification for such holidays shall be defined by the criteria set forth in §16.2 and §16.3.

§ 16.9 Veterans Day and Memorial Day.

Any member entitled to time off for Veterans Day or Memorial Day under the provisions of Section 63 of the New York State Public Officers Law, may elect to forego such benefits, and elect in lieu thereof to receive payment for equivalent time off, such payment to be included in the lump sum payment made for holiday pay as herein before provided. An election under this paragraph shall be made at the same time that election must be made by each member in accordance with the other provisions of this Article.

§ 16.10 PAID HOLIDAY PROCEDURES.

A. Seniority Selection Period for Paid Holidays

1. From December 26 through December 31 each year officers may submit request for paid holidays during the next calendar year to their platoon, bureau, or shift supervisors as follows. Officers may request:
  - a. two (2) separate paid holidays; or
  - b. up to five (5) consecutive paid holidays.
2. Paid holidays may be scheduled to precede and/or follow an officer's regular days off.
3. After all requests are received from the December 26-31 period, paid holiday requests submitted during this period will be granted by seniority subject to minimum staffing levels and availability of officers to work overtime.

**B. General Selection Period for Paid Holidays**

1. Commencing January 1 each year officers may request paid holidays for any date(s) within that calendar year. Requests made on January 1 and thereafter will be granted on a "first-come" basis subject to minimum staffing levels and availability of officers to work overtime.

**C. Selection Procedures for Paid Holidays**

1. Officers desiring to take paid holidays or other types of days off will fully complete the Day-Off Request Form and submit it to their supervisor.
  - a. If an officer requests a paid holiday with less than twenty four (24) hours notice, the City may, in the event of the need for overtime, deny the paid holiday request.
2. The supervisor will note on the form the date and time the request is received. The supervisor will then review the roster for the date(s) requested and determine whether there will be sufficient officers working to approve the request. Upon making a determination, the supervisor will note on the form whether the request is "APPROVED," "CONTINGENT," or "DENIED" as follows and sign the form.
  - a. APPROVED: The form submitted by officers requesting a paid holiday on a given day will be marked "approved" until the minimum staffing level of the platoon in question is met. Note: The staffing level of the requested day will be determined as of the day the request is made.
  - b. CONTINGENT: Once the platoon's minimum staffing level is met, subsequent paid holiday requests will be marked "contingent." Pursuant to §16.6 of this Agreement, one officer will be hired on overtime to facilitate the taking of a paid holiday by another officer. If there is already one overtime position being used to permit another officer to take a paid holiday, then the "contingent" paid holiday may not be taken.
  - c. DENIED: If an officer submits a form requesting a paid holiday, and a review of the roster on the day in question shows that the platoon is at minimum staffing, and one overtime position is already being used to permit another officer to take a paid holiday, the form will be marked "denied" and the paid holiday may not be taken.
3. If the paid holiday is approved or contingent the supervisor will also make the appropriate notation on the roster for the date(s) in question.

4. The supervisor will then return the completed and signed Day-Off Request form to the requesting officer. The officer should retain the completed form.
5. The actual use of paid holidays that are approved is subject to the availability of officers to work overtime should that become necessary to maintain minimum staffing levels. If it is necessary to hire overtime officers to maintain minimum staffing levels, the appropriate supervisors will canvass the Department for officers to work overtime in accordance with standard procedures. If after this procedure officer(s) are not available to work overtime, the outgoing shift on the day in question will be canvassed for volunteer(s) to work on an overtime basis. If no officer volunteers, the requisite number of officers to meet minimum staffing will be held over and required to work on an overtime basis. The officers will be selected in reverse order of seniority, i.e., the on-duty officer(s) with the least seniority will be held over first. One officer may be held over in this manner for each officer who is off on a paid holiday. For example, if three (3) officers are off on a paid holiday, then three (3) officers from the outgoing shift may be held over if necessary to meet minimum staffing levels.
  - a. If this would result in an officer working more than sixteen (16) consecutive hours, or more than two (2) sixteen (16) consecutive hour tours of duty in any consecutive seventy-two (72) hour period, the officer in question will not be held over. In such cases the next most junior officer will be held over.
  - b. If an officer is subject to a mandatory holdover, that officer will not be subject to another mandatory holdover until all the other officers from that platoon have been subject to a mandatory holdover.

§ 16.11 OVERTIME PROCEDURES

- A. Platoon Overtime Lists: Each patrol platoon (A, B, and C) will maintain an overtime call-in list with officers ranked in order of seniority.
  1. Officers assigned to the Special Shift, Heritage Park Patrol, Public Housing Patrol, and K-9 Officers will select one of the three patrol platoon's overtime lists. The officer will be placed at the bottom of the selected list. If more than one such officer chooses the same list they will be placed on the bottom of the list in order of his/her seniority.
  2. In recognition of an SRO's involvement with students, an SRO shall have priority over all other unit employees with respect to any overtime work assignments at the school to which the SRO is assigned. Any remaining

overtime assignments shall be made in accordance with the Department's standard overtime procedures in effect at the date of execution of the Agreement.

- B. When the need is anticipated for officers to work on an overtime basis to supplement the patrol platoons in non-emergency situations, the appropriate supervisor(s) will attempt to fill the required overtime positions by canvassing the officers on the overtime lists in the following order:
1. the patrol platoon for which the vacancy exists;
  2. the patrol platoon preceding the platoon for which the vacancy exists;
  3. the patrol platoon following the platoon for which the vacancy exists;
  4. the Traffic Bureau;
  5. the Detective Bureau;
- a. Example: There is a need to secure one officer on overtime for C Platoon on a given date. Canvassing would be done in the following order: (1) C Platoon overtime list; (2) B Platoon overtime list; (3) A Platoon overtime list; (4) Traffic Bureau; (5) Detective Bureau.
- C. In the event the entire Department is canvassed in the prescribed manner and the requisite number of officers are not obtained, supervisors may solicit officers for overtime without further regard to the above procedure.
- D. In the event the above procedures are followed and minimum staffing is still not met, and officer(s) are off on a paid holiday, officers from the outgoing shift will be held over on an overtime basis in accordance with the procedure set forth above in §16.10(C)(5).
- E. In the event of an emergency, urgent, or time-sensitive situation requiring that officers be called in on overtime as quickly as possible, supervisors may contact officers in the quickest and most expeditious manner available without regard to the above procedure.

## ARTICLE 17 – HEALTH INSURANCE

### § 17.1 City provided coverage.

The City shall make available to the members of the bargaining unit the health insurance benefits described below. However, the City shall make available member family

coverage only to those members with a family which qualifies for member family coverage according to the terms of the member family coverage policies.

(a) The health insurance plan to be purchased by the City of Elmira under this Agreement will be through Blue Cross Blue Shield Insurance participating physician program (hereinafter called BCBS.)

(b) The City reserves the right to change carriers, but expressly agrees not to diminish existing coverage in that event.

(c) The BCBS insurance shall incorporate the maximum benefit levels in each category presently offered by BCBS subject to the following:

(1) Vision care coverage is included;

(2) The prescription medicine rider co-pay will be:

Generic - \$2.00

Brand - \$10.00

Mail Order

Generic - \$0.00

Brand - \$5.00

(3) Dental coverage is provided. Sealant coverage for dependents to age fourteen.

(4) Drug maintenance program.

(d) It is understood that employees agree to a bi-weekly payroll deduction of Fifteen Dollars (\$15.00) beginning January 1, 2004 and ending June 30, 2005; a bi-weekly payroll deduction of Twenty Dollars (~~\$20.00~~) beginning July 1, 2005 and ending December 31, 2005; a bi-weekly payroll deduction of ~~Twenty-five Dollars (\$25.00) beginning January 1, 2006~~ and ending June 30, 2006; and a bi-weekly payroll deduction of Thirty Dollars (\$30.00) beginning July 1, 2006.

The City and the Association agree to engage in a plan to contain this rising cost of prescription drugs. The plan will consist of the following:

(1) Replacement of prescribed brand name drugs with generic drugs or lower costing equivalent.

(2) If an employee objects to this replacement, an appeals process will be established by the parties and the drug provider that will allow for the employee to present medical evidence why the replacement is inappropriate. The appeals process will be set forth in Appendix B,

attached hereto and made a part of this Agreement.

(3) Upon the election of employee, brand name drugs may be purchased providing that the employee pays the designated brand name co-payment and the difference in cost between the replacement drug and the brand name drug.

(4) Prescribed maintenance drugs will be purchased through the mail-order program.

(5) The City and the Association will agree on the sole source retail provider for this service.

(6) The City agrees to provide documentation which will explain and provide guidance for members, who will be using this cost containment program.

(b) **Wellness Program:**

Both the City and the Association recognize the value of encouraging healthy lifestyles, and preventative health measures. Healthy employees are more productive, use fewer City-funded medical services and are best able to provide for the needs of their families.

To encourage and enhance health, the City and the Association will establish a wellness program. This program will be designed by a joint committee of the Association and the City and will consist of such elements as:

-Smoking Cessation

-Hypertension Screening

-Stress reduction, and other preventative and educational issues as seen appropriate by the committee.

Both the City and the Association fully encourage participation in the program(s), but the decision shall be on a voluntary basis.

It is the intent of the parties that the cost of basic screening and education shall be borne by the City. Additional cost beyond the basic program shall be borne by the employee or the Health Insurance Plan.

§ 17.2 Major Medical.

Current benefits with the maximum lifetime amount payable to a subscriber for covered medical expenses is to be \$250,000.

§ 17.3 Premium payment.

The City, subject to Articles 11 and 35 of this Agreement, shall pay the cost of all premiums to provide the health insurance benefits described in §17.1 and §17.2.

§ 17.4 Retirees' coverage.

Members who retire during the term of this Agreement shall be eligible for one of the following four (4) options:

- (1) Twelve (12) years of fully-paid health insurance;
  - (a) Retirees, who are eligible for coverage through another employer or through a spouse's employment, are not eligible for City coverage. The City shall reimburse the member for expenses incurred in the alternative plan that would have been paid under the City plan: deductibles, co-pays, payroll deductions. Retirees may submit for reimbursement on a quarterly basis provided written verification of expenditures is submitted to the Personnel Department.
- (2) The retiree shall have the option to terminate receiving health insurance coverage through the City at any time during the twelve (12) year period and receive the remaining pro-rated amount of the one time, lump-sum payment of Twenty Thousand Dollars (\$20,000.00). For example, if the retiree elects to discontinue health insurance coverage through the City at the end of his/her fifteenth (15<sup>th</sup>) month of coverage, the retiree shall receive a one time, lump-sum payment \$17,917.00 calculated as follows: 144 month maximum coverage, minus 15 months actually covered equals 129 months to be paid for in lieu of receiving coverage. The \$20,000.00 maximum payment divided by 144 months equals a monthly payment of \$138.89 multiplied by 129 months equals \$17,917.00.
  - (a) Once the retiree chooses to receive the remaining pro-rated amount of the one time, lump-sum payment, the retiree shall not be allowed to re-enter the City's health insurance coverage.
  - (b) The retiree shall give notice to the City on the form attached hereto as Appendix "C", and made a part of this Agreement, of his/her election to terminate health care coverage with the City and such termination of coverage will occur on the date such form is received by the City. Any payout to retiree as a result of such termination of coverage shall be paid by the City to the retiree within two weeks, or as soon thereafter as is practicable.



(3) In lieu of twelve (12) years of fully paid health insurance, a one time lump-sum payment of Twenty Thousand Dollars (\$20,000.00);

(a) Once the retiree chooses to receive the one time, lump-sum payment, the retiree shall not be allowed to re-enter the City's health insurance coverage.

(4) The retiree may elect, in lieu of health insurance coverage, to receive Two Thousand Dollars (\$2,000.00) per year, for each consecutive year of the twelve (12) year retiree health insurance coverage period for which the retiree chooses not to receive health insurance through the City.

(a) The retiree shall give notice to the City on the form attached hereto as Appendix "C", and made a part of this Agreement, of his/her election to forego health care coverage by the City for the next consecutive three hundred and sixty five (365) day period following receipt of such notice by the City. Any payout to retiree as a result of such termination of coverage shall be paid by the City to the retiree within two weeks, or as soon thereafter as is practicable.

(b) Such termination of coverage will occur on the date such form is received by the City and continue for the next three hundred sixty five (365) consecutive days, unless the retiree opts to re-enter the City's health insurance program. In that event, coverage will not commence until the retiree reimburses the City for the pro-rated amount of the Two Thousand Dollars (\$2,000.00).

One of the above options must be chosen at the time of retirement.

In order to be eligible for any of the above options the member must meet the following criteria:

- Minimum twenty (20) years of service (in the case of a member receiving a disability retirement from the NYS Police and Fire Retirement System, the 20 Year Minimum Service Requirement shall be waived).
- Receiving a pension from the NYS Police and Fire Retirement System.
- Or, receiving disability benefits from the Social Security System.

As a condition of continued eligibility, it is agreed and understood that members who retire must file for Medicare Parts A & B and make that coverage primary when eligible.

§ 17.5 Terminal Leave in Exchange for Health Insurance on Retirement.

- (1) Members who retire on or before January 15, 2006 shall have the option of surrendering any and all accumulated terminal leave time as provided in Article 31 in exchange for one (1) additional year of fully paid health insurance for each ten (10) days of terminal leave time surrendered.
- (2) Members who retire on or before December 31, 2006 shall have the option of surrendering any and all accumulated terminal leave time as provided in Article 31 in exchange for one (1) additional year of fully paid health insurance for each fifteen (15) days of terminal leave time surrendered. Employees retiring after December 31, 2006 will not be permitted to surrender any accumulated terminal leave time in exchange for any additional year(s) of fully paid health insurance.
- (3) It is agreed and understood that this provision shall sunset on December 31, 2006. In the event the parties do not have a successor agreement in place by December 31, 2006, the parties expressly agree that this provision will not be continued past December 31, 2006.

§ 17.6 Retiree's surviving spouse/dependent coverage.

Surviving spouses and dependents, upon the death of a retiree who is within the time frame of City paid health insurance one-hundred forty-four (144) months, the surviving spouse/dependent shall continue to be covered by the City for the remaining term of the member's City paid health insurance. In the case that the surviving spouse/dependent has health insurance available through his/her employer, he/she shall be required to enroll in that insurance in lieu of remaining in the City's plan. The City shall reimburse the spouse/dependent for expenses incurred in the plan which would have been covered under the City plan, i.e., deductibles, co-pays, as well as any payroll deductions incurred.

§ 17.7 Changing carriers; benefits.

The City has the right to change insurance carriers or to self insure the benefits described above. However, the Association shall have the right to review and approve the plan document for any change. This approval by the Association cannot be denied as long as the plan document provides benefits equal to those benefits described in §17.1 and §17.2.

§ 17.8 Payment in Lieu of Insurance.

- (a) Those employees eligible for either the family plan or the individual plan are offered a voluntary option not to participate, with the City to annually pay the employees one-third (.33) of the difference in premium between the plan the employees were

qualified to participate in and non-participation for the number of months not participating. The payment would be made in December based on the number of months of non-participation. The opt out will be for the entire year, January through December, unless the member was hired during the year or loses coverage elsewhere.

Members who lose coverage elsewhere, will be allowed to re-enroll as of the first of the month following loss of coverage.

(b) Employees eligible to have a family plan shall be offered the right to elect individual coverage only with the City to annually pay the employee one-third (.33) of the difference in premium between the plan the employees were qualified to participate in and non-participation for the number of months not participating. This payment will be made in December for the number of months of non-participation in the family plan. The opt out will be for the entire year, January through December, unless the member was hired during the year or loses coverage elsewhere.

§ 17.9 Effective date of coverage.

Health insurance coverage will commence on the first day of employment and terminate on the last day of employment not withstanding the provisions of Article 17.4.

§ 17.10 Re-entry.

An employee retains the right to re-enter the plan he/she is eligible for on the first of the month following at least ten (10 days) written notice to the Personnel Department provided the employee can verify loss of coverage elsewhere. If coverage is not lost, employee may re-enter the plan on January 1. Re-entry cannot be retroactive.

## ARTICLE 18 – RETIREMENT CONTRIBUTIONS

§ 18.1 Retirement plan contributions.

The City, pursuant to, and in accordance with, Section 317, 323, 330 and 333 of the New York State Retirement and Social Security Law (hereinafter referred to as the "Retirement Law"), as enacted as of January 1, 1986, shall pay to the New York State and Local Police and Fire Retirement System (hereinafter referred to as the "Retirement System"), during each calendar year of this Agreement, a sum sufficient to allow for the following retirement benefits, as defined herein, which may be received from the Retirement System by each member of the bargaining unit following retirement.

§ 18.2 Retirement Plan.

The sum to be paid by the City to the Retirement System, as provided herein, shall be sufficient in amount to provide the following retirement benefits only as the following retirement benefits are established as of January 1, 1986, by the respective sections of the Retirement Law cited hereinbelow.

(a) Twenty-five (25) year retirement, as presently provided for in Section 384(a) of the Retirement Law.

(b) The one-sixtieth (1/60) additional retirement sum, as presently provided for in Sections 384(f), (g) and (h) of the Retirement Law.

§ 18.3 Twenty (20) year retirement program.

(a) Effective January 1, 1989, all members of the New York State and Local Police and Fire Retirement System, who are represented by this Association, shall be allowed the privilege of participating in the Twenty (20) Year New York State Retirement program, Section 384(d).

(b) The provisions of this Article shall be administered according to Section 384 of the New York State and Local Police and Fire Retirement System.

(c) Participation in the Section 384(d) Retirement Program shall be non-contributory on the part of electing Association members and fully funded by the City, in addition to:

(1) The "Final Average Salary" benefit, as presently provided for in Section 302(9) of the Retirement Law;

(2) The credit for certain World War II service, as presently provided for in Section 341(k) of the Retirement Law; and

(3) The guaranteed ordinary death benefit, as presently provided for in Section 360(b) of the Retirement Law.

(d) The provisions of this article shall continue in effect the retirement benefits to which a member would have been entitled from the Retirement System had the member retired on December 31, 1983.

§ 18.4 Section 375-I.

The retirement program will be improved for those who are eligible by the provision of Section 375-I.

ARTICLE 19 – BEREAVEMENT LEAVE

§ 19.1 Entitlement.

(a) A bereavement leave of absence not to exceed one (1) day, with full pay,

shall be granted to a member of the bargaining unit upon the death of a member's brother-in-law, sister-in-law, nephew, niece, aunt, uncle, a grandparent of a member's spouse, a brother-in-law of a member's spouse, or a sister-in-law of a member's spouse. The bereavement leave of absence shall be granted only for a date no earlier than the date of death and no later than the date of burial as selected by the member.

(b) A bereavement leave of absence not to exceed three (3) consecutive days, with full pay, shall be granted to a member upon the death of a member's spouse, child, father, mother, sister, brother, father-in-law, mother-in-law, foster-parent, step-parent, grandparent or grandchild. The bereavement leave of absence shall be granted only for consecutive dates commencing no earlier than the date of death and no later than the date of burial as selected by the member.

#### § 19.2 Conditions for crediting absence.

(a) If a death regarding which a member would be entitled to a bereavement leave, as provided herein, occurs while the member is not on vacation, on sick leave, or off duty, the bereavement leave provided for herein shall be in addition to the vacation, holiday and sick leave benefits provided for elsewhere in this Agreement.

(b) If a death regarding which a member would be entitled to a bereavement leave, as provided herein, occurs while the member is on vacation, on sick leave, or off duty, the bereavement leave provided for herein, shall not be applicable, and shall therefore not be granted, for the dates for which the member was scheduled to be on vacation, on sick leave or off duty.

### ARTICLE 20 – PERSONAL LEAVE

#### § 20.1 Entitlement.

Each member of the bargaining unit shall be granted, subject to the restrictions set forth in §20.2 four (4) days, with full pay, during each year of this Agreement, as personal leave days.

#### § 20.2 Non-accumulation.

Personal leave days shall not accumulate year to year, but must instead be taken, if at all, during each year of this Agreement.

## ARTICLE 21 – EQUIPMENT ALLOWANCE

### § 21.1 Equipment provided.

Upon original appointment to the Department, a member of the bargaining unit will be furnished with the following items by the City:

- (a) One (1) Overcoat
- (b) One (1) Short Jacket
- (c) Three (3) Pair of Trousers
- (d) One (1) Dress Uniform Hat
- (e) One (1) Winter Hat
- (f) One (1) Raincoat
- (g) Two (2) Neckties
- (h) Five (5) Short Sleeve Uniform Shirts
- (i) Five (5) Long-sleeve Uniform Shirts
- (j) One (1) 45 caliber semi-automatic
- (k) One (1) Bullet-proof vest
- (l) Two (2) Vest Carries (one summer and one winter)
- (m) One ASP Baton
- (n) One (1) Sam Browne Waist Belt with holster, one “d” ring, one shell container (loop or box type), one radio carrier harness.
- (o) One (1) Crowd Control Helmet
- (p) One (1) Tie Clasp
- (q) One (1) Pair of Handcuffs and Handcuff Case

### § 21.2 Replacing equipment.

The items furnished to members in accordance with section 21.1 hereof, will be replaced by the City, where necessary, on a Quartermaster System Basis, as follows:

- (a) A member must request the member’s supervisor to replace an item.
- (b) The final determination as to whether it is necessary to replace an item shall be made by the member’s supervisor.
- (c) All issued items will be maintained by the City in stock, in quantity numbers, and in various sizes.
- (d) Trousers will be stocked by bulk sizes, that is, waist sizes 34, 35, 36, etc.
- (e) Where an item is replaced which requires tailoring at the time of replacement, the member will be directed by the City to a tailor, with the City paying the cost of tailoring.

(f) Any tailoring, or other maintenance, required as a result of a physical change of a member, will remain the responsibility of the member, and the member shall pay the cost of any necessary tailoring or other maintenance.

§ 21.3 Cleaning and maintenance allowance.

(a) The City will pay for the dry cleaning and maintenance of uniforms for uniformed personnel in the amount of Seven Hundred Dollars (\$700.00) for the calendar year 2004; Eight Hundred Dollars (\$800.00) effective January 1, 2005 and One Thousand Dollars (\$1,000.00) effective January 1, 2006. Payment will be in such increments and at such intervals as the City determined within each calendar year to persons on the payroll as of January 1 of that calendar year. The pre-existing arrangements for issuance and acquisition of apparel items, including employee personal responsibilities, are to continue. Non-uniform personnel will receive pay for dry cleaning and maintenance in the amount of One Thousand Dollars (\$1,000.00) for the calendar year 2004; One Thousand One Hundred Dollars (\$1,100.00) effective January 1, 2005 and One Thousand Three Hundred Dollars (\$1,300.00) effective January 1, 2006.

(b) Employees who are absent from work pursuant to General Municipal Law § 207-c shall receive the allowance in such amounts and upon such terms as other unit employees unless and until they have been continuously absent from work with the City for more than one (1) year. Thereafter, the allowance shall be discontinued until the employee returns to work in either full or light duty status. Upon an employee's return to work in any calendar year, the allowance shall be pro-rated to reflect the number of months remaining in that calendar year. For purposes of this provision, a return to work on or before the fifteenth (15<sup>th</sup>) of any month shall be counted as a full month worked. For example, an officer who returns to work April 7<sup>th</sup> would receive 9/12s of the annual allowance.

(c) The allowance shall be pro-rated for employees who retire from service. An employee who retires effective on or after the fifteenth (15<sup>th</sup>) of any month shall be credited as having worked the full month. For example, an employee who retires March 16<sup>th</sup> would receive 3/12s of the annual allowance for service during January, February and March.

§ 21.4 Change in assignment.

If a member, following original appointment, is assigned duties on a permanent basis which require civilian clothing instead of a uniform, the member shall receive an allowance, on a quarterly basis, in the amount of one hundred fifty (\$150.00), prorated on the basis of time spent by the member on such an assignment should the member be promoted or transferred. Such a clothing allowance shall be paid to the member on a quarterly basis, upon presentation to the Chamberlain of a voucher approved by the member's supervisor.

§ 21.5 Uniform required.

All the items described hereinabove are furnished by the City to insure uniformity and all members shall utilize only the items furnished by the City, while on duty, and shall maintain the items in a uniform manner.

§ 21.6 Reimbursement for loss of personal property.

In the event a member suffers the loss of eyeglasses, or a wristwatch, or suffers damage to a member's uniform during a confrontation with a subject of police action, the City agrees to replace these items if restitution ordered by a court is not complied with in a timely basis.

ARTICLE 22 – SAFETY

§ 22.1 Committee established.

There shall be a Safety Committee during the term of this Agreement.

§ 22.2 Composition of Safety Committee.

The Safety Committee shall consist of two representatives appointed by the City and two representatives appointed by the Association.

§ 22.3 Meetings.

The Safety Committee shall meet within forty-eight (48) hours upon call by the City Manager or the President of the Association.

§ 22.4 Purposes.

The Safety Committee shall consider the safety of the members of the bargaining unit in individual, specific factual situations which arise during the term of this Agreement.

§ 22.5 Majority vote.

The Safety Committee shall act by majority vote with all representatives present.

§ 22.6 Issuing recommendations.

The Safety Committee shall make recommendations to the City Manager concerning the question of safety of the members in the individual, specific factual situation before the Safety Committee, within seven (7) calendar days, or within such other period of time as is agreed upon by the Safety Committee.



§ 22.7 Arbitration.

In the event the Safety Committee reaches a deadlock, the question of the safety of the members in the individual, specific factual situation before the Safety Committee shall be submitted to arbitration in accordance with Article 40 - Grievance and Arbitration Procedure.

ARTICLE 23 – TRAINING

§ 23.1 Purpose.

The City and the Association recognize the need to continually train and modernize the skills of the members of the bargaining unit, in order to assure the safety and welfare of the members as well as the Community.

§ 23.2 Program maintained.

To this end, the City, which has sole discretion as regards, for example, the type, methods, frequency and scheduling of training, shall continue to maintain a program of training.

ARTICLE 24 – DEPARTMENT VEHICLES

§ 24.1 Service log required.

The City shall maintain a service log for all Department vehicles.

§ 24.2 Reporting defects.

Any member who, in the course of the member's regularly scheduled tour of duty, is assigned a Department vehicle, shall report to the Chief any faulty operation of the vehicle to which the member is assigned.

§ 24.3 Inspecting log.

Any member shall have the right to inspect the service log maintained by the City for a vehicle to which the member is assigned, as described herein, should the member have reason to believe that report of faulty operation of the vehicle has not been followed by an attempt to service the vehicle.

§ 24.4 Reporting discrepancies.

In the event the member, following inspection of the service log, believes that proper service of the vehicle has not been rendered on a timely basis, the member shall report the absence of proper, timely service to the Chief, who, in turn, shall refer the member's report to the City Manager, for appropriate action.

## ARTICLE 25 – PERSONNEL FILES

### § 25.1 One personnel file; grievances filed separately.

The City shall maintain, through the Department, only one file containing materials relating to wages, hours of employment and other terms and conditions of employment for each member of the bargaining unit, which shall be identified as the member's "Personnel File." Any records of grievances shall be kept in a separate file identified as that of the member's "Grievance File."

### § 25.2 Completeness of file.

Only materials contained in a member's personnel file shall be used in a disciplinary proceeding against a member.

### § 25.3 Right to review; respond.

No material pertaining to a member's conduct, service, character, personality or performance shall be placed in a member's personnel file unless the member has been given the opportunity to review the material. The member will acknowledge that he/she has had the opportunity to review the material by affixing his/her signature to the copy to be filed, with the express understanding that such signature in no way indicates agreement with the contents thereof. The member shall have the right to submit a written response to any materials placed in the personnel file and such response shall be attached to the file copy. Pre-employment material excluded.

### § 25.4 Full documented; annual review.

Any information used to evaluate a member's performance must be fully documented. Each member, upon a written request to the Chief, shall have the right to inspect, in the presence of the Chief, or a designee of the Chief, the member's personnel file, on an annual basis, and, in addition, at any time a member is passed over for promotion. The member may have an Association representative with him during such inspection.

### § 25.5 Right to copy.

A member shall have the right to have one copy of any item contained in the member's personnel file upon request at the time of inspection.

### § 25.6 Complaint cards purged.

The City agrees to purge the hard cards (complaint cards) of any unsubstantiated complaints within fifteen (15) days of the answering of the complaint on the card.

## ARTICLE 26 – BILL OF RIGHTS

### § 26.1 Rights afforded.

In accordance with the laws of the State of New York, and the applicable federal laws, the members of the bargaining unit shall be afforded all rights of citizens of the United States with regard to tests and other law enforcement procedures to include polygraph, breathalyzer, police line-up and police mug shot procedures.

### § 26.2 Political activity protected.

Except when on duty or acting in the member's official capacity, no member shall be prohibited, unless otherwise prohibited by law, from engaging in political activity, or be denied the right to refrain from engaging in such activity.

### § 26.3 Rights of members while under investigation.

Whenever a member is under investigation for alleged malfeasance, or nonfeasance of official duty, with a view to possible disciplinary action, demotion, dismissal or criminal charges, the following minimum standards shall apply:

- (a) No adverse inference shall be drawn and no punitive action taken from a refusal of the member being investigated to participate in such investigation or to be interviewed.
- (b) Any interview of a member shall take place at the offices of those conducting the investigation, the place where the member reports for duty, or such other reasonable place as the investigator may determine.
- (c) The member being investigated shall be informed, at the commencement of any investigation, of the nature of the investigation, and, at the commencement of any interview of such a member in connection with any such investigation, such a member shall be informed of all persons to be present during such interview. All questions asked in such an interview shall be asked by or through a single interrogator at any one time. The City may withhold notice to the member of the existence of an investigation for thirty (30) days when the investigation is of allegations of an ongoing or continuing course of misconduct.
- (d) No formal proceeding which has authority to penalize a member may be brought except upon charges signed by the persons making those charges.
- (e) Any interview of a member in connection with an investigation shall be for a reasonable period of time, and shall allow for reasonable periods for the rest and personal necessities of such a member.

(f) No threat, harassment, promise, or reward shall be made to any member in connection with an investigation in order to induce the answering of any question, but immunity from prosecution may be offered by the District Attorney to induce such answering.

(g) All interrogations of any member in connection with an investigation may be recorded in full.

(h) The member shall be entitled to the presence of the member's attorney or an Association official of the member's choice for any interview in connection with the investigation.

#### § 26.4 Civil suits of members.

(a) The City shall continue to provide, if obtainable, liability insurance with the members as named insured.

(b) Furthermore, the City shall continue to provide the members with a defense in any lawsuit arising out of the actions of the members during the member's performance of duty, however, providing a member with a defense shall not necessarily impose an obligation upon the City to pay any judgment rendered against a member.

#### § 26.5 Disclosure of finances.

No member shall be required to disclose, for the purpose of promotion or assignment, any item of the member's property, income, assets, debts, or expenditures or those of any member of such a member's household.

#### § 26.6 Notice of disciplinary action.

Whenever a personnel action, which will result in any loss of pay or benefits, or is otherwise punitive, is taken against a member, such a member shall be notified of such action and the reasons therefore a reasonable time before such action takes effect.

#### § 26.7 Retaliation for exercising rights.

There shall be no penalty nor threat of any penalty for the exercise by a member of the member's rights under the Bill of Rights.

#### § 26.8 Other remedies not disparaged.

Nothing in this Bill of Rights shall disparage or impair any other legal remedy any member shall have with respect to any rights under this Bill of Rights.

§ 26.9 Drug and Alcohol Testing.

The City and Association agree that the critical mission of law enforcement justifies maintenance of a drug and alcohol free working environment through the use of a reasonable drug and alcohol testing program. Members of the Association are required to submit to drug and/or alcohol testing according to the procedures set forth in Appendix "D," attached hereto and made a part of this Agreement.

ARTICLE 27 – DUES AND AGENCY SHOP FEE CHECKOFF

§ 27.1 Payroll deduction; members.

Subject to Section 210(3) of the Civil Service Law, the City agrees to make a bi-weekly payroll deduction of Association dues from any member of the bargaining unit, upon receipt by the City Chamberlain (hereinafter referred to as the "Chamberlain") of a signed authorization for such deduction from the member, and to thereafter transmit said deductions to the Treasurer of the Association, together with a record of the names of the members for whom said deductions were made, and the amount of deduction for each member. The City shall begin the deduction described herein with the first payroll period following receipt by the Chamberlain of a member's signed authorization.

§ 27.2 Payroll deduction; non-members.

Subject to Section 210(3) of the Civil Service Law, the City agrees to make a bi-weekly payroll deduction of the "agency shop fee", in accordance with Article 4 of this Agreement, and to thereafter transmit said deductions to the Treasurer of the Association, together with a record of the names of the members for whom the deductions were made, and the amount of deduction for each member. The City shall begin the deduction described herein with the first payroll period following receipt by the City Chamberlain of a notice from the President of the Association that a member has been removed from membership in the Association or has failed to make application for membership in the Association within the time period described in Article 4 of this Agreement.

§ 27.3 Changes in dues.

If the amount of Association dues is changed during the term of this Agreement, the Association shall so notify the Chamberlain in writing, and the City agrees, upon such notification, to make deductions of the new amount, as described in §27.1. The City shall begin the deduction of the new amount described herein with the second payroll period following receipt by the City Chamberlain of the Association's notice.

§ 27.4 Revoking membership.

Any member may cancel a dues deduction authorization by submitting a signed cancellation to the Chamberlain at least thirty (30) days prior to the effective date of

cancellation. The City agrees to notify the Association of the receipt of any such cancellation.

§ 27.5 Refunds for errors.

The Association agrees to refund any amount of Association dues, or agency shop fees, paid to it by the City in error, upon presentation of proper evidence of such error.

§ 27.6 Indemnification.

The Association shall indemnify the City, and hold the City harmless, against any and all liability which may arise by virtue of actions which the Association has requested the City to take, or not to take in connection with the payroll deduction of Association dues.

ARTICLE 28 – RELEASE TIME

§ 28.1 Release time for Association officials.

An up-to-date list of the names of the President, Vice-President, Secretary, Treasurer and all six (6) Directors of the Association shall be kept on file with the Chief and the City Manager. There shall be one (1) Director on each of the five (5) shifts and one (1) Director representing Supervisors. Each Director will be allowed to use up to one (1) hour each day to perform duties with regard to the Association. The time will be limited to proper Association business and to the Director's normal working hours.

§ 28.2 Release time for members and delegates.

The City shall grant release time with pay to members and delegates designated by the Association for Association business. This time shall be limited to a maximum of three (3) members at any one time, and to the specific purpose for which the time was granted. In no event will release time with pay exceed five (5) calendar days for any single purpose.

§ 28.3 Release time for New York State Police Conference Convention.

The City shall grant release time with pay to members and delegates by the Association for the purpose of attending the New York State Police Conference Convention. This time shall be limited to a maximum of two (2) members at any one time and to the period of the Convention, plus reasonable travel time if such is needed.

§ 28.4 Release time for negotiations.

The City shall grant release time with pay to the members of the Association's Negotiating Committee, and the Association's Secretary, when present at a negotiating session, as follows: If a negotiating session is more than three (3) hours in duration, and

concludes within three (3) hours preceding the start of a member's next scheduled tour of duty, the member shall be excused, with pay, at the member's regular wage, from the member's next scheduled tour of duty, for a period of time, not to exceed eight (8) hours, equivalent to the length of the negotiating session which concluded within three hours preceding the start of the member's next scheduled tour of duty.

## ARTICLE 29 – SICK LEAVE

### § 29.1 Entitlement.

Except as provided in Section 207(c) of the New York State General Municipal Law (hereinafter referred to as the "General Municipal Law"), and except as otherwise provided in Article 30 of this Agreement, when any member of the bargaining unit is absent from duty on account of sickness, full pay for lost time shall be granted at the rate of sixty (60) working days per year, plus two (2) additional working days per year for each year of continuous service with the City.

### § 29.2 Eligibility.

In order for a member to be entitled to the sick leave benefits described herein during each and every calendar year of this Agreement, the member must actually work at least one (1) tour of duty during the calendar year in which the member desires to receive the sick leave benefits described herein.

### § 29.3 Non-accumulation.

Sick leave benefits shall not accumulate year to year, and, if not taken during the respective calendar year, the sick leave benefits shall lapse on December 31 of the respective year, except as otherwise specifically provided herein. If, during any calendar year of this Agreement, a member begins to use sick leave benefits to which the member would be entitled as provided herein, and the member continues to use such sick leave benefits, on successive working days proceeding into the following calendar year, the member shall be entitled to exhaust, during such following calendar year, the unused sick leave benefits to which the member was entitled during the preceding calendar year, provided the member continues to use such sick leave benefits on successive working days.

### § 29.4 Exceptions.

If a member uses sick leave benefits in the manner described in §29.3, and the member, after exhausting such sick leave benefits, actually works at least one (1) tour of duty in accordance with §29.2, the number of sick leave days to which the member would be entitled in accordance with §29.2 shall be reduced by the number of sick leave days used by the member during the following calendar year in accordance with §29.3.

§ 29.5 Provisions not applied to terminal leave.

The provisions of this Article shall not serve as a basis for the computation of Retirement Benefits as provided in Article 31 of this Agreement.

§ 29.6 Physician's verification of illness.

The City retains the right to verify the illness of a member at any time. However, a physician's certificate of illness shall not be required if a member has been receiving sick leave benefits for a period which does not exceed two (2) working days.

§ 29.7 Disability Determination Under Section 207-c.

I. PURPOSE

In order to ensure that determinations arising by virtue of the provisions of §207-c of the General Municipal Law (GML) satisfy the interest of those Police Officers eligible for benefits and the City of Elmira, the following exclusive procedure shall be utilized to make any benefit determinations, review of benefit determinations, or light duty assignments.

II. DEFINITIONS

A. Police Officers or Officers: These terms refer to all sworn members of the Elmira Police Department.

B. Claimant: A Police Officer claiming eligibility for benefits under GML §207-c.

III. DESIGNATION OF ADMINISTRATOR

A. The City Manager shall designate an Administrator who shall have exclusive authority to make an initial determination on behalf of the City pursuant to GML §207-c.

IV. PROCEDURE FOR REPORTING DUTY-RELATED INJURIES OR ILLNESSES

A. A member who claims to be injured in the performance of duty or claims to have become ill as a result of the performance of duty will verbally notify a Supervisor as soon as possible regardless of the severity of the injury or illness.

B. If the Officer is capable of doing so, he or she will file a injury/illness report on a form prescribed by the Chief of Police.



This form will be filed by the Officer prior to leaving duty.

C. If the Officer is not capable of filing the report, an on-duty Supervisor will file the report. If the Officer does not become aware of the duty-related injury or illness until after leaving duty, and must seek medical or hospital care prior to returning to duty, the Officer may notify an on-duty Supervisor of the injury or illness verbally or by telephone. The Supervisor will then file the required report on behalf of the Officer.

D. Copies of the report will be distributed as follows:

1. One copy of the report will be forwarded to the Records Bureau;
2. One copy of the report will be forwarded to the Chief of Police through the chain-of-command and placed in the injured/ill Officer's medical file.

E. The Officer should notify a Supervisor and file the required report as soon as he or she becomes aware of a duty-related injury or illness. The report must be filed within twenty (20) calendar days after the incident claimed to have caused the injury or illness, or within twenty (20) calendar days of the time the Officer knew or should have known that the injury or illness was a result of performance of the Officer's duties. The failure to satisfy these time limits shall preclude an award of benefits pursuant to GML §207-c. However, the Administrator shall have the discretionary authority to excuse a failure to meet these time limits for good cause shown.

F. The facts and circumstances of a claimed duty-related injury or illness will be investigated and reviewed in accordance with standard procedures.

#### V. STATUS PENDING DETERMINATION OF ELIGIBILITY FOR BENEFITS

A. In the event an Officer asserts an inability to perform duties as the result of a duty-related injury or illness, he or she will be placed on "injury status" pending a determination of eligibility for benefits.

#### VI. BENEFIT DETERMINATION

A. An individual seeking benefits under GML §207-c must demonstrate by substantial evidence his or her entitlement to them. The

Administrator shall promptly review timely applications and any other pertinent documents and/or evidence available. If the Administrator makes a determination that the injury occurred in the performance of duty or the illness is a result of the performance of duty, he/she shall direct payment of the full amount of regular salary and shall ensure the City's responsibility for the reasonable and customary cost of treatment and hospital care associated with the injury or illness. The payment of regular salary and medical expenses may be discontinued as provided by GML §207-c.

B. In the event a question arises as to initial eligibility for benefits or their continuance once awarded, the following procedure will apply:

1. The Administrator shall promptly inquire into the applicable facts. The Administrator shall have the authority to:

a. Require the claimant to submit to one or more medical examinations as may be reasonably necessary to determine the existence of a disability and its extent;

b. Employ medical specialists and other appropriate individuals;

c. Require at reasonable times and on reasonable notice the attendance of the claimant or any witness to an incident to secure information;

d. Require the claimant to sign a release or otherwise waive any right to confidentiality of his or her medical history or records; and

e. Undertake such other acts necessary for making a determination of eligibility for benefits.

2. The claimant will cooperate by providing information, medical records, and other documents requested by the Administrator and by submitting to required medical examinations and evaluations. The claimant will not assert any privilege or right to confidentiality in his or her medical history or records relevant to the condition in question. The claimant may provide the Administrator with any document, sworn statement or other information relating to the alleged injury or illness or the incident alleged to have caused such injury or illness.

- C. To resolve a question of initial or continued eligibility for benefits, the Administrator shall make a decision on the basis of any medical evaluations and other information available, including information provided by the claimant. The claimant shall be notified in writing of any determination made by the Administrator and the basis for the determination. Upon request by the claimant, or his or her representative, a copy of any document used by the Administrator to determine eligibility for benefits in accordance with this procedure shall be made available to the claimant.
- D. In the event the Administrator determines that the claimant is eligible for benefits under GML §207-c, the Officer will continue to receive such benefits as long as he or she remains unable to perform regular duties or until terminated in accordance with law or the collective bargaining agreement. While the claimant continues to receive benefits, the Administrator may at any time review continued eligibility for benefits in accordance with this procedure.
- E. In the event the Administrator determines that the claimant is not eligible for benefits, all time off taken on "injury status" will be converted to sick leave or other accrued leave in accordance with the collective bargaining agreement. If it is determined that the claimant is disabled, i.e., not capable of working and performing regular duties, but is not eligible for benefits, the claimant will be allowed to use accrued leave per the collective bargaining agreement and, upon exhaustion of such leave, shall be subject to termination in accordance with law or the collective bargaining agreement.
- F. In the event a claimant is adversely affected by a determination, he or she may appeal such determination as set forth below.

## VII. APPEAL OF ADVERSE DETERMINATION

- A. In the event a claimant wishes to appeal an adverse determination by the Administrator as to eligibility for benefits or request by the Administrator for records or submissions to examination, he or she will serve written notice on the City Manager requesting a hearing. The claimant will serve such notice on the City Manager no later than fifteen (15) business days after the adverse determination.
- B. The following procedures will be followed in conducting the appeal:
  - 1. The City and the Association will establish a list of

mutually acceptable persons to serve as a Hearing Officer to preside over the appeal. Upon receiving a notice of appeal, the City Manager will designate a Hearing Officer from among the persons on this list. The Hearing Officer shall have the authority to administer oaths to witnesses; to regulate the course and conduct, time, and place of the hearing; and to fix the time for filing of briefs.

2. The claimant will be given advanced notice of the date of the hearing of at least ten (10) business days.

3. The claimant will have the right to be represented by an attorney and/or Association representative, the right to present documentary and testimonial evidence, to examine and cross-examine witnesses, and to present verbal and written arguments in support of his or her position. Compliance with the formal rules of evidence will not be required.

4. The burden of proof by a preponderance of the evidence shall be borne by the claimant seeking benefits.

5. The cost of the hearing will be borne equally by the City and the claimant. The parties shall bear the costs of their own witnesses and any other expenses the parties may incur.

6. The Hearing Officer will make a final decision to resolve the matter or matters at issue. This decision shall be in writing. A copy of the decision will be provided to the claimant.

C. Any final decision by the Hearing Officer under these procedures shall be subject to review as provided by law.

#### VIII. LIGHT DUTY ASSIGNMENT

A. The Chief of Police may assign a member who is off duty on injury/illness to a light duty assignment consistent with his or her medical or physical condition.

B. In the event of a light duty assignment, the member shall receive regular salary and any increases thereof and fringe benefits that would have been received had regular duties been performed.

C. In placing a member on light duty, the following procedure will be followed:

1. The Chief will inform the member that his or her ability to perform a light duty assignment is being reviewed. The member may submit to the Chief any medical report, document, or other evidence of the injury or illness and the Officer's ability to perform a light duty assignment.

2. The Chief may require the member to submit to one or more medical examinations as may be reasonably necessary to determine whether the Officer is capable of performing a light duty assignment. Any such examination will be at the City's expense.

A. The Chief will provide the examining physician(s) with a list of the type of duties and activities to be performed in the proposed light duty assignment. The physician(s) shall make an evaluation as to the ability of the Officer to perform certain duties or activities given the nature and extent of the injury or illness.

3. The Chief will review medical evaluations and other information available, including information provided by the Officer. If, on the basis of that review, the Chief concludes that the Officer is capable of performing the light duty assignment, the Chief may require the Officer to perform such assignment.

4. The Chief will designate the work schedule for the light duty assignment. In the event the proposed schedule is different from the member's regular schedule and would create a hardship for the Officer, the Chief will make reasonable accommodations to change it to a mutually agreeable schedule.

In the event that the Chief does not accept the member's claim of hardship and proposes to assign the member to a light duty work schedule other than the member's regular schedule over the objection of the member, a Review Committee will be convened to review the member's claim of hardship. The Committee will consist of six (6) members as follows: The Association President and two additional Association members designated by the President; the Chief of Police and two (2) additional persons designated by the Chief. The Committee will review the member's claim of hardship and vote on the issue of the validity of the claim. If a majority of the Committee votes to support the hardship claim, then the Officer's light duty assignment will be done during his/her regular work schedule.

If a majority rejects the claim, the light duty work schedule may be

set by the Chief. In the event of a tie vote, the matter will be resolved in accordance with standard grievance procedures.

#### IX. OUTSIDE EMPLOYMENT

A. Members wishing to continue outside employment while receiving benefits must first file written requests with the Chief of Police. The Chief will determine whether the member may continue outside employment while receiving benefits. Engaging in outside employment without the permission of the Chief will result in a suspension of benefits.

B. Ownership of a business in the operation of which the member is not actively engaged shall not be considered outside employment.

#### ARTICLE 30 – NON-DUTY DISABILITY

##### § 30.1 Disability coverage.

In the event a member of the bargaining unit is disabled by injury, illness or otherwise, arising out of employment not covered by this Agreement, and not in the performance of duty, the City shall be obligated to provide the member, in the manner described in §30.2, the difference between the member's bi-weekly wage, as set forth in the Salary Schedule, and any benefits actually received by the member pursuant to the New York State Worker's Compensation Law (hereinafter the "Worker's Compensation Law"), except "disability benefits" received pursuant to Article 9 of the Worker's Compensation Law, "scheduled losses" received pursuant to Section 15 of the Worker's Compensation Law, and "lump sum settlements" received pursuant to Section 142 of the Worker's Compensation Law.

##### § 30.2 Procedures.

Any payments which the City shall be obliged to provide a member under the terms of §30.1, shall be provided to the members as follows:

(a) A member must pursue all remedies for recovery of benefits pursuant to the Worker's Compensation Law, to which the member may be entitled.

(b) The member, upon receipt of any benefits pursuant to the Worker's Compensation Law, will immediately report the receipt of such benefits to the Chamberlain.

(c) Thereafter, the Chamberlain may deduct from the member's bi-weekly pay, or other compensation being received by the member from the City, the amount of the benefits being received by the member pursuant to the Worker's Compensation Law.

(d) When, and to the extent that, the City makes such deductions, any sick leave benefits, as provided for elsewhere in this Agreement, which the member has actually used in connection with the non-duty disability, shall be restored to the member to the degree equivalent in dollar amount to the benefits received by the member pursuant to the Worker's Compensation Law.

§ 30.3 Exceptions.

The terms of this Article shall not apply if the Chief has expressly authorized, in writing, the police related employment not covered by this Agreement, commonly known by the parties as "Book Jobs", out of which the member's disability arises. The Chief shall not authorize police related employment outside the corporate limits of the City.

ARTICLE 31 – RETIREMENT BENEFITS (TERMINAL LEAVE)

§ 31.1 Termination pay upon retirement.

The City shall provide to any member of the bargaining unit who, during the term of this Agreement, retires, in accordance with the Retirement Law, either voluntarily or due to a disability (hereinafter referred to in this Article as a "retiring member"), the following benefits only, at the time of retirement. A retiring member shall receive the compensation provided for herein no later than the second payroll period following the date of retirement. In addition to the retirement benefits which a retiring member shall receive from the City, as described herein, a retiring member shall receive from the Retirement System the retirement benefits described in Article 18 of this Agreement. A retiring member, following the date of retirement, shall thereafter no longer be covered by this Agreement, and shall not be entitled to the terms of employment or benefits set forth in this Agreement, except as provided in this Article.

The City, after 1994, shall pay one hundred percent (100%) of the cost of the health insurance coverage the member had at the time of retirement for the first twelve (12) years of retirement immediately after employment with the City consistent with all other qualifications necessary as set forth in Article 31.

§ 31.2 Wages.

A retiring member shall be entitled to all unpaid wages earned in accordance with Article 11 of this Agreement.

§ 31.3 Longevity compensation.

A retiring Police Officer shall be entitled to all unpaid longevity compensation earned in accordance with Article 11 of this Agreement.

§ 31.4 Overtime.

A retiring member shall be entitled to all unpaid overtime earned in accordance with Article 13 of this Agreement.

§ 31.5 Vacation benefits.

(a) A retiring member, pursuant to General Municipal Law, Section 92, shall be entitled to compensation, at the rate of one-tenth (1/10) of the effective bi-weekly wage, set forth in the Salary Schedule, which is applicable to the respective classification in which the retiring member is then employed, equivalent to the monetary value of the unused vacation earned by the retiring member, in accordance with Article 15 of this Agreement, during the calendar year preceding the year during which the retiring member retires.

(b) A retiring member, pursuant to General Municipal Law, Section 92, shall also be entitled to compensation equivalent to the monetary value of the unused vacation earned by the retiring member between January 1 of the calendar year during which the retiring member retires, and the date of retirement.

The unused vacation compensation described herein shall be prorated on the basis of one-twelfth (1/12) of the vacation benefits to which the retiring member would be entitled, in accordance with Article 15 of this Agreement, for every month, the major portion, being fifty-one percent (51%), of the days of which the retiring member is continuously employed after January 1 during the year which the retiring member retires.

§ 31.6 Holiday benefits.

(a) A retiring member shall be entitled to compensation, at the rate of one-tenth (1/10) of the effective bi-weekly wage, set forth in the Salary Schedule, which is applicable to the respective classification in which the retiring member is then employed, equivalent to the monetary value of the unused holidays, except the holiday designated as December 24, earned by the retiring member in accordance with Article 16 of this Agreement.

(b) A retiring member shall be entitled to compensation, at the rate of one-twentieth (1/20) of the effective bi-weekly wage, set forth in the Salary Schedule, which is applicable to the respective classification in which the retiring member is then employed, equivalent to the monetary value of the unused holiday of December 24, earned by the retiring member in accordance with Article 16 of this Agreement.

§ 31.7 Sick leave benefits.

(a) A retiring member shall be credited with an accumulation of one (1) sick leave day (hereinafter referred to as "accumulated days") for every month, the major portion, being fifty-one percent (51%), of the days of which the retiring member has been



continuously employed with the City, since original employment with the City, and up to the date of retirement.

(b) A retiring member shall then be credited with the balance (hereinafter referred to as the "retirement benefit days") between the retiring member's "accumulated days" and the number of sick leave days actually used by the retiring member since original employment with the City, and up to the date of retirement. The maximum number of "retirement benefit days" which a retiring member shall be credited as having accumulated, as provided herein, shall be two hundred (200) for payment.

(c) In the event a retiring member has in excess of two hundred thirty-five (235) "accumulated days" standing to the credit of the retiring member, and the retiring member retires before using in excess of (60) consecutive sick leave days (hereinafter referred to as the "extended illness period"), as provided in Article 29 of this Agreement, and the retiring member retires without actually working a tour of duty following the "extended illness period", the "retirement benefit days" standing to the credit of the retiring member at the date of retirement shall be reduced by the number of sick leave days, in excess of sixty (60), that the retiring member used during the "extended illness period" in accordance with Article 29 of this Agreement. Employees shall be permitted to accrue unused sick leave days to a maximum of twelve (12) days per year throughout their tenure, subject to preservation of existing administrative controls.

(d) A retiring member, subject to the provisions of subparagraph (e) hereinbelow, shall be entitled to compensation, at the rate of one-tenth (1/10) of the effective bi-weekly wage, set forth in the Salary Schedule, which is applicable to the respective classification in which the retiring member is then employed, for 60 percent (60%) of the unused balance of the retiring member's "retirement benefit days", as computed as described hereinabove. A retiring member, subject to the provisions of subparagraph (e) hereinbelow, upon attaining (A) twenty eight (28) years of service or (B) twenty-five (25) years of service and fifty (50) years of age shall upon electing to retire, which election must be exercised within thirty (30) days of attaining (A) or (B), be entitled to compensation, at the rate of one-tenth (1/10) of the effective bi-weekly wage, set forth in the Salary Schedule, which is applicable to the respective classification in which the retiring member is then employed, for seventy-five percent (75%) of the unused balance of the retiring member's (retirement benefit days) as computed as described hereinabove. However, this latter provision may only be utilized if there are less than six (6) mandatory retirements in any year and only the difference between the number of mandatory retirements and six (6) will be entitled to the benefits of this provision. Those members entitled to the benefits of this provision shall be determined on the basis of seniority. Any member electing to utilize this provision but who is unable to do so because of the number of retirees in that year may carry forward their eligibility to the following year and have first priority to available eligibility in that year.

(e) It is the intent of this Article that a retiring member be rewarded with compensation for accumulating, in a conscientious manner, unused sick leave benefits which the retiring member might have used in accordance with Article 29 of this

Agreement. However, in agreeing upon the provisions of this Article, the parties recognize that a retiring member might be inclined to claim as sick leave benefits in accordance with Article 29 of this Agreement the difference between the retiring member's "retirement benefit days", in anticipation of the retiring member's date of retirement. To alleviate a possible abuse of the sick leave benefits provided in Article 29 of this Agreement, the parties agree as follows. When a retiring member has in excess of two hundred (200) "accumulated days" standing to the credit of the retiring member and the retiring member, during the calendar year immediately preceding the retiring member's eligible date for retirement in accordance with the Retirement Law, or thereafter, uses sick leave benefits in accordance with Article 29 of this Agreement, and there is a question as to the validity of the retiring member's illness, the City Manager may, in the City Manager's discretion:

(1) Direct, in writing, that the retiring member provide a statement from the retiring member's attending physician attesting to the nature and seriousness of the retiring member's illness; and/or

(2) Direct, in writing, that the retiring member submit to an immediate examination by a physician designated by the City Manager – the examination to be as extensive as deemed necessary by the physician to reach a determination as to the validity of the retiring member's illness; or

(3) Accept the unsubstantiated validity of the retiring member's illness.

(f) In the event the retiring member fails to provide a statement from the retiring member's attending physician, in accordance with subparagraph (1) hereinabove and then refuses to submit to an immediate examination, in accordance with subparagraph (2) hereinabove, or in the event the physician, in accordance with subparagraph (2) hereinabove, determines that the retiring member's illness is not valid, the City Manager may direct that all, or a portion of the sick leave days used by the retiring member be deducted from the "retirement benefit days" standing to the credit of the retiring member at the date of retirement.

(g) Notwithstanding any provisions to the contrary herein, any member who (a) has obtained twenty-five (25) years of service and is at least fifty (50) years of age who elects to retire shall be entitled to seventy-five percent (75%) of the unused balance of his retirement benefit days as set forth in 31.7(d). This provision, however, shall be subject to the following:

(1) Such election must be exercised no later than thirty (30) days of obtaining twenty-five (25) years of service and fifty (50) years of age or twenty-eight (28) years of service.

(2) The election may only be utilized if there is less than six (6) mandatory retirements in any year.

(3) The members entitled to use this provision shall be determined on the basis of seniority.

(4) If any member is eligible to retire under this section but is unable to do so due to the number of mandatory retirements, the member may carry forward his/her eligibility to the following year and has first priority to eligibility in that year.

## ARTICLE 32 – VOLUNTARY TERMINATION BENEFITS (TERMINAL LEAVE)

### § 32.1 Termination pay upon voluntary termination.

The City shall provide to any member of the bargaining unit who, during the term of this Agreement, voluntarily terminates employment, except by retirement, (hereinafter referred to in this Article as “resigning member”), the following benefits only, at the time of voluntary termination. A resigning member shall receive the compensation provided for herein no later than the second payroll period following the date of voluntary termination. A resigning member, following the date of voluntary termination, shall thereafter no longer be covered by this Agreement, and shall not be entitled to the terms of employment or benefits set forth in this Agreement, except as provided in this Article.

### § 32.2 Wages.

A resigning member shall be entitled to all unpaid wages earned in accordance with Article 11 of this Agreement.

### § 32.3 Longevity compensation.

A resigning member shall be entitled to all unpaid longevity compensation earned in accordance with Article 11 of this Agreement.

### § 32.4 Overtime.

A resigning member shall be entitled to all unpaid overtime earned in accordance with Article 13 of this Agreement.

### § 32.5 Vacation benefits.

(a) A resigning member, pursuant to General Municipal Law, Section 92, shall be entitled to compensation, at the rate of one-tenth (1/10) of the effective bi-weekly wage, set forth in the Salary Schedule, which is applicable to the respective classification in which the resigning member is then employed, equivalent to the monetary value of the unused vacation earned by the resigning member, in accordance with Article 15 of this Agreement, during the calendar year preceding the year during which the resigning

member terminates employment.

(b) A resigning member, pursuant to General Municipal Law, Section 92, shall also be entitled to compensation equivalent to the monetary value of the unused vacation earned by the resigning member between January 1 and the calendar year during which the resigning member terminates, and the date of termination. The unused vacation compensation described herein shall be pro-rated on the basis of one-twelfth (1/12) of the vacation benefits to which the resigning member would be entitled, in accordance with Article 15 of this Agreement, for every month, the major portion being fifty-one percent (51%) of the days of which the resigning member is continuously employed after January 1 during the year during which the resigning member terminates employment.

#### § 32.6 Holiday benefits.

(a) A resigning member shall be entitled to compensation, at the rate of one-tenth (1/10) of the effective bi-weekly wage, set forth in the Wage Schedule, which is applicable to the respective classification in which the resigning member is then employed, equivalent to the monetary value of the unused holidays, except the holiday designated as December 24, earned by the resigning member in accordance with Article 16 of this Agreement.

(b) A resigning member shall be entitled to compensation, at the rate of one-twentieth (1/20) of the effective bi-weekly wage, set forth in the Salary Schedule which is applicable to the respective classification in which the resigning member is then employed, equivalent to the monetary value of the unused holiday of December 24, earned by the resigning member in accordance with Article 16 of this Agreement.

### ARTICLE 33 – INVOLUNTARY TERMINATION (TERMINAL LEAVE)

#### § 33.1 Termination pay upon involuntary termination.

The City shall provide to any member of the bargaining unit who, during the term of this Agreement, is involuntarily terminated by the City from employment (hereinafter referred to in this Article as a "Terminated Member"), the following benefits only, at the time of involuntary termination. A terminated member shall receive the compensation provided for herein no later than the second payroll period following the date of involuntary termination. A terminated member, following the date of involuntary termination, shall thereafter no longer be covered by this Agreement, and shall not be entitled to the terms of employment of benefits set forth in this Agreement, except as provided in this Article.

#### § 33.2 Wages.

A terminated member shall be entitled to all unpaid wages earned in accordance with Article 11 of this Agreement.

§ 33.3 Longevity compensation.

A terminated member shall be entitled to all unpaid longevity compensation earned in accordance with Article 11 of this Agreement.

§ 33.4 Overtime.

A terminated member shall be entitled to all unpaid overtime earned in accordance with Article 13 of this Agreement.

§ 33.5 Vacation benefits.

(a) A terminated member, pursuant to General Municipal Law, Section 92, shall be entitled to compensation, at the rate of one-tenth (1/10) of the effective bi-weekly wage, as set forth in the Salary Schedule, which is applicable to the respective classification in which the terminated member is then employed, equivalent to the monetary value of the unused vacation earned by the terminated member, in accordance with Article 15 of this Agreement, during the calendar year preceding the year during which the terminated member resigns.

(b) A terminated member, pursuant to General Municipal Law, Section 92, shall also be entitled to compensation equivalent to the monetary value of the unused vacation earned by the terminated member between January 1 of the calendar year during which the terminated member resigns, and the date of resignation. The unused compensation described herein shall be pro-rated on the basis of one-twelfth (1/12) of the vacation benefits to which the terminated member would be entitled, in accordance with Article 15 of this Agreement, for every month, the major portion, being fifty-one percent (51%), of the days of which the terminated member is continuously employed after January 1 during the year during which the terminated member resigns.

§ 33.6 Holiday benefits.

(a) A terminated member shall be entitled to compensation at the rate of one-tenth (1/10) of the effective bi-weekly wage, set forth in the Salary Schedule, which is applicable to the respective classification in which the terminated member is then employed, equivalent to the monetary value of the unused holidays, except the holidays designated as December 24, earned by the terminated member in accordance with Article 16 of this Agreement.

(b) A terminated member shall be entitled to compensation, at the rate of one twentieth (1/20) of the effective bi-weekly wage, set forth in the Salary Schedule which is applicable to the respective classification in which the terminated member is then employed, equivalent to the monetary value of the unused holiday of December 24, earned by the terminated member in accordance with Article 16 of this Agreement.

## ARTICLE 34 – DEATH BENEFITS

### § 34.1 Ordinary death benefit payable by the City.

(a) In the event of the death of a member of the bargaining unit during the term of this Agreement, the City shall provide a cash payment equivalent to the benefits to which the member would have been entitled, in accordance with Article 31 of this Agreement, had the member survived.

(b) The payment described herein shall be made to the Executor/Executrix or Administrator/Administratrix of the member's estate, or to the member's surviving spouse, as the case may be, for appropriate distribution, upon receipt by the Chamberlain of a Certificate of Appointment of Executor/Executrix, or Certificate of Appointment of Administrator/Administratrix, or an affidavit by the surviving spouse as provided for in Section 1310 of the New York State Surrogate's Court Procedure Act, as the case may be.

### § 34.2 Ordinary death benefit payable by the Retirement System.

In the event of the death of a member during the term of this Agreement, the Retirement System shall provide an ordinary death benefit, as presently provided for in Section 360(b) of the Retirement Law, in accordance with Article 18 of this Agreement.

### § 34.3 Accidental death benefit payable by the City.

In the event a member, during the term of this Agreement, suffers an accidental death, as defined in General Municipal Law, Section 208(b), the City, in addition to the death benefits described in §34.1, shall further provide the death benefit set forth in General Municipal Law, Section 208(b), to the widow, child or children, as the case may be, of the member of the bargaining unit who, during the term of this Agreement, has suffered an accidental death, as defined in General Municipal Law, Section 208(b).

### § 34.4 Accidental death benefit payable by the Retirement System.

In the event a member, during the term of this Agreement, suffers an accidental death, the Retirement System shall provide an accidental death benefit as presently provided for in Section 361 of the Retirement Law, in accordance with Article 18 of this Agreement.

## ARTICLE 35 – LEAVE OF ABSENCE

### § 35.1 Unpaid leave.

Subject to the provisions of Section 207(c) of the General Municipal Law, and except as provided in Article 30 of this Agreement, in the event a member of the bargaining unit is

unable to work tours of duty for any reason other than the member's retirement, voluntary termination, death or involuntary termination, and the member exhausts all accrued vacation benefits to which the member would be entitled in accordance with Article 15 of this Agreement, and all sick leave benefits to which the member would be entitled in accordance with Article 29 of this Agreement, the member shall be placed by the City on an unpaid leave of absence, and the member shall not be entitled to further wage, vacation, holiday, bereavement leave, sick leave and release time benefits, and shall bear personal responsibility for timely paying to the Chamberlain, without reimbursement from the City, the entire cost of all health insurance benefits available to the member in accordance with Article 17 of this Agreement, until the member actually works a tour of duty following the unpaid leave of absence.

§ 35.2 Resignation or termination during leave.

In the event a member who has been placed on an unpaid leave of absence voluntarily terminates employment under this Agreement, or is terminated from employment by the City, the member shall thereafter no longer be covered by this Agreement, and shall not be entitled to the terms of employment or benefits set forth in this Agreement, except as provided in Articles 32 and 33, respectively, of this Agreement.

§35.3 Family and/or Medical Leave of Absence.

DEFINITIONS –

- (1) Family and/or Medical Leave of Absence (FMLA Leave): An approved leave of absence available to eligible members for up to twelve (12) weeks per year under the following circumstances: birth of the member's child; placement of child with member for adoption or foster care; when an employee must care for a child, spouse, or parent due to a serious health condition; or when the member is unable to perform the duties of his or her job due to a serious health condition.
- (2) Serious Health Condition: A long-term or protracted condition that requires either in-patient care or continuing treatment by a health care provider. It does not include a short-term condition for which standard sick leave may be used. Examples of serious health conditions include but are not limited to heart attacks, heart conditions requiring heart bypass or valve operations, most cancers, back conditions requiring extensive therapy, serious injuries, strokes, severe respiratory conditions, etc.
- (3) Eligible Member: A member employed by the City of Elmira Police Department for at least twelve (12) months and who has worked at least 1250 hours during the twelve (12) month period preceding the commencement of the leave.

- (4) Year Defined: For purpose of this Article, a year will be defined as a calendar year provided the member works at least one (1) day in that calendar year.

#### EXHAUSTION OF ACCRUED LEAVE –

Prior to being granted FMLA leave, the member must first use all available accrued leave of any kind including sick leave, vacation, compensatory time, and personal days.

#### INSURANCE COVERAGE –

- (a) The employee must have been enrolled in the medical and/or dental plan prior to the inception of the leave.
- (b) The terms and conditions of medical and/or dental insurance will remain the same as set forth in Article 17 of this Agreement for active members.
- (c) The member will be responsible for remitting the employee contribution for medical and/or dental insurance when billed by the City.
- (d) In the event the member elects not to return to work upon completion of an approved FMLA due to a serious health condition of the member or member's child, spouse, or parent, the City may not recover the cost of medical and/or dental insurance to maintain the member's coverage during the period of the leave. If the election not to return to work was not for such reasons, the City may recover these costs.

#### RIGHT TO RETURN TO EMPLOYMENT –

At the completion of the FMLA leave, the member will have the right to return to active employment. While out on FMLA leave, the member will retain all rights afforded in Article 10.2 of this Agreement.

#### PROCEDURE TO REQUEST LEAVE –

- (A) The member requesting FMLA leave must file a written request with the Chief of Police at least one (1) week in advance of the requested commencement date of the leave. The request must contain at a minimum the following:
- (1) The reasons for the requested leave;
  - (2) The date on which the condition began;



- (3) Appropriate medical facts regarding the condition;
- (4) The anticipated duration of the leave; and
- (5) If the purpose of the leave is to care for a child, spouse, or parent, the estimated amount of time that the member is needed to provide such care.

(B) The member must provide such additional information and documentation as reasonably requested by the Chief to substantiate the condition or circumstances for which the leave is being requested.

In order to use sick leave for a FMLA situation involving spouse/child/parent without the advanced notice provisions of Section "A" above, the following procedures must be followed:

1. Employee notifies supervisor of a FMLA leave situation experienced by a spouse/child/parent. Until further notice the time off will be charged to vacation, comp, personal or holiday.
2. Employee submits a request to the Chief for use of sick leave due to a family FMLA situation. The request will contain the following:

Reason for leave  
Date on which condition began  
Appropriate medical facts regarding the nature of the problem  
Anticipated duration of the leave  
Estimated amount of time needed by the member to care for the family member

3. If the absence qualifies as a FMLA situation, payroll records will be adjusted to replace vacation/comp/holiday with sick leave.

#### CHANGE IN LEAVE PERIOD –

The member may elect to return before the end of the requested leave period or to extend the leave period further within the allowable maximum period. The member must provide written notice of such election to the Chief of Police of at least one (1) week in advance of the requested change.

#### LIMITATION FOR SPOUSES EMPLOYED BY THE CITY –

In the event a member's spouse is employed by the City, both spouses are entitled to a combined total of twelve (12) weeks of leave for the birth or adoption of a child.

## ARTICLE 36 – JOB VACANCIES

### § 36.1 Filling vacancies.

When a vacancy in a position held by a member occurs, which, if filled, would be filled by an original appointment of a new member, or by promotion of a member, the City shall solely determine whether to fill the vacancy. If the City determines to fill such a vacancy, the City shall fill the vacancy in accordance with the Civil Service Law. If the City determines not to fill such a vacancy, the City shall immediately notify the Association of the reasons for the determination.

### § 36.2 Department assignments.

- (a) When a vacancy in a position held by a member occurs, which, if filled, would be filled by a new job assignment to a member, the City shall solely determine whether to fill the vacancy.
- (b) If the City determines to fill such a vacancy, the department shall post a notice of the vacancy on all bulletin boards maintained in the Department, to allow the members the opportunity to apply for the vacancy.
- (c) If the City determines to fill such a vacancy, the City agrees to recognize the importance of seniority, among other pertinent facts, in filling the vacancy.
- (d) If the City determines to fill such a vacancy, the final determination of which member shall fill such vacancy shall be made by the Chief.
- (e) If the City determines not to fill such a vacancy, the City shall immediately notify the Association of the reasons for the determination.

## ARTICLE 37 – CIVIL SERVICE LAW REQUIREMENTS

### § 37.1 Examination required.

The City agrees to petition the Civil Service Commission of Chemung County (hereinafter referred to as “Commission”) to require any person seeking an appointment to the Department, as a member of the bargaining unit, to engage in a competitive Civil Service examination, such examination to be established by the Commission, and to be administered in conformity with the existing entrance criteria of the Commission and the Civil Service Law. The City further agrees to petition the Commission to require any person seeking an appointment to the Department, as a member, to produce a document certifying that the person has attained a standard, or accredited, four-year high school diploma. Such a document shall become a permanent part of a member’s Personnel Record upon appointment. The sole intent of the foregoing is to insure a high standard

for any person seeking an appointment to the Department, as a member.

§ 37.2 One eligibility list maintained.

The City agrees to petition the Commission to maintain only one eligibility list on file; at any one time, for original appointment, or promotion.

§ 37.3 Annual entrance and promotional examinations.

The City agrees to petition the Commission to hold entrance and promotional examinations on an annual basis, at least one hundred twenty days (120) prior to the expiration of an existing entrance, or promotional, eligibility list.

§ 37.4 Promotional examinations.

The City agrees to petition the Commission to hold promotional examinations on a biennial basis, at least one hundred twenty (120) days prior to the expiration of an existing promotional eligibility list.

§ 37.5 Promotional eligibility list.

The city agrees to petition the Commission to maintain a promotional eligibility list for a period of no more than two (2) years. In the event a new entrance eligibility list is not available at the end of a two-year (2) period, an extension of the entrance eligibility list may be made if the Commission determines such an extension is in the best interest of the City and the Department.

## ARTICLE 38 – RESIDENCE REQUIREMENTS

§ 38.1 Residence requirement; County.

Effective January 1, 1993, members of the bargaining unit shall be allowed to reside within the limits of the County.

§ 38.2 Preference not given for City residence.

In hiring new employees, or in filling promotional positions, the City agrees to petition the Civil Service Commission not to give preference to persons living within the City limits of the City of Elmira.

## ARTICLE 39 – DISCHARGE AND DISCIPLINE

### § 39.1 Just cause.

No employee covered under Section 75 shall be discharged, dismissed or disciplined except for just cause. Should there be any dispute between the City and any employee concerning the existence of good and sufficient cause for discharge or discipline, such dispute shall be adjusted in accordance with the terms of this section. This disciplinary procedure for incompetence or misconduct prescribed in this Article shall be available for appropriate City employees as an alternative to the procedure described in Section 75 and/or 76 of the New York State Civil Service Law.

(a) Said employee shall include all applicable employees covered in accordance with Section 75 of the Civil Service Law.

(b) An employee shall have the right to choose either Section 75 proceedings or just cause through the grievance procedure but not both procedures to dispute such disciplinary action.

### § 39.2 Procedure for disciplinary action.

In the event a Department head deems fit to impose disciplinary action on an employee, notice of such disciplinary decision shall be made in writing and served on the employee. The specific act(s) alleged that warrant disciplinary action and the proposed sanction(s) shall be specified in the Notice of Discipline.

(a) The Association shall be advised by registered mail, certified mail or by personal service that said Notice of Discipline has been served on an employee, within forty-eight (48) hours of service.

(b) Said Notice of Discipline shall be accompanied by a written statement that:

(1) An employee served with a Notice of Discipline has the right to object by filing a grievance within eight (8) days or by exercising his/her right under Section 75 and/or 76 of the New York State Civil Service Law.

(2) If said employee does object, then he/she must file written notice of his/her choice of procedures; subject to the provisions of this section, with the City and the Association no later than the eighth (8<sup>th</sup>) day after receiving such Notice of Discipline. If an employee elects to object to the disciplinary charges through a Section 75 hearing, the employee shall have eight (8) days from the time of the City's notification of the selection of the Section 75 proceedings to file an answer.

(3) If the employee selects the just cause alternative, the City and the Association will notify the American Arbitration Association of the need of an Arbitrator from the permanent list of Arbitrators found in Appendix "E," attached hereto and made a part of this agreement. The parties shall be bound by the rules of the American Arbitration Association.

(4) The employee has the right to be represented by the Association, or by an attorney, at every stage of the proceeding.

(c) Pending the hearing and determination of charges of incompetence or misconduct, the employee against whom such charges have been preferred may be suspended without pay for a period not exceeding thirty (30) days.

#### ARTICLE 40 – GRIEVANCE AND ARBITRATION PROCEDURE

##### § 40.1 Definitions.

As used herein, the following terms shall have the following meaning:

- (a) "City" shall mean the City of Elmira, or a department thereof.
- (b) "Association" shall mean the Elmira Police Benevolent Association.
- (c) "Employee" shall mean any person or persons covered by the terms of this Agreement and directly compensated by the City.
- (d) "Grievant" shall mean employees, groups of employees, or the Association acting on behalf of same, alleging a grievance.
- (e) "Supervisor" shall mean an employee or officer on a higher level of authority above the employee and who assigns and supervises the employee's work and approves his/her time record or evaluates his/her work performance.
- (f) "Days" shall mean all days other than Saturdays and Sundays, and legal holidays. Saturdays, Sundays and legal holidays shall be excluded in computing the number of days within which action must be taken or notice given with the terms of this grievance procedure.
- (g) "Grievance" shall mean any claimed violation, misinterpretation, or inequitable application of the existing Agreement, laws, rules, procedures, regulations, administrative orders, or work rules of the City of Elmira or a department thereof, which relate to or involve employee health or safety, physical facilities, materials or equipment furnished to employees, or supervision of employees; provided, however, that such term shall not include any matter involving the allocation of a position to a position class

or title and the allocation of a position class to a salary grade.

§ 40.2 General provisions.

(a) Each employee shall have the right to present a grievance in accordance with the procedures provided herein free from interference, coercion, restraint, discrimination or reprisal, and shall have the right to be represented by the Association at all stages of the grievance procedure.

(b) Written appeals from the grievant shall be submitted to the appropriate Department head and the Director of Personnel; written responses of the City shall be submitted to the grievant and the Association.

§ 40.3 Time limits.

The time limits set herein for the presentation of grievances in all stages may be waived or extended by mutual agreement of the parties involved.

§ 40.4 Procedure; Step 1.

Immediate Supervisor Stage. The member shall present a written grievance to the member's Association representative who shall submit the grievance to the member's immediate Supervisor within fifteen (15) days of the occurrence of the grievance or fifteen (15) days of when the member became aware of the alleged violation. The grievance shall be presented to the Supervisor on a standard grievance form. The Supervisor shall make a good faith effort to resolve the grievance and shall respond to the grievance in writing within five (5) days.

If the immediate Supervisor does not have the authority to resolve the grievance, the Association may begin the grievance procedure at Step 2.

§ 40.5 Procedure; Step 2.

Department Head Stage. If not resolved at Step 1, within five (5) working days of receipt of the decision at Step 1, the member or Association shall present the grievance, to the Chief of Police who shall within five (5) working days, discuss the grievance with the Association and shall, within ten (10) working days of the receipt of the written grievance, forward his/her written decision concerning the grievance to the Association.

§ 40.6 Procedure; Step 3.

If Step 2 fails to produce a settlement, the grievance shall be forwarded to the Director of Personnel within five (5) working days after receipt of the Chief's written decision. Within five (5) working days of receipt of the grievance, the Director of Personnel shall discuss the grievance with the Association and shall, within ten (10) working days forward a written response to the Association.

§ 40.7 Procedure; Step 4.

Arbitration stage. In the event the Association wishes to appeal an unsatisfactory decision at Step 3, a Demand for Arbitration shall be presented to the Director of Personnel within thirty (30) days of receipt of the Step 3 decision. The Association will simultaneously submit a copy of the Demand to the American Arbitration Association and request assignment of an arbitrator from its permanent list. The permanent list of Arbitrators is found in Appendix "E," attached hereto and made a part of this Agreement. Either party may strike one (1) Arbitrator from this list during the term of this Agreement. The parties shall be bound by the rules of the American Arbitration Association. The Arbitrator's decision shall be final and binding. The Arbitrator shall have no power to add or to subtract from, or modify the provisions of this Agreement in arriving at a decision of the issues presented. All fees and expenses of the arbitration shall be divided equally between the parties. Each party shall bear the cost of preparing its own case.

ARTICLE 41 – EFFECTIVE DATE AND DURATION OF AGREEMENT

§ 41.1 Duration.

This Agreement shall take effect January 1, 2004, and shall remain in effect through December 31, 2006.

ARTICLE 42 - FUTURE NEGOTIATIONS

§ 42.1 Opening negotiations.

The parties agree that, on or about July 15<sup>th</sup>, of the final year of this Agreement, the parties shall commence negotiations, provided the Association is the exclusive collective bargaining representative for the members at that time, to determine what terms and conditions of employment shall apply to the members after December 31, 2006.

§ 42.2 Continuation of expired agreement.

Until such time as the parties agree as to what terms and conditions of employment shall apply for the members after December 31, 2006, the provisions of this Agreement shall remain in effect.

ARTICLE 43 – AMENDMENT

§ 43.1 Amending the agreement.

This Agreement shall be subject to amendment at any time by mutual consent of the parties. Any amendment shall be reduced to writing, signed by the parties, and ratified

by the members of the bargaining unit and approved by the City Council. Any amendment shall take effect immediately upon ratification by the members and approval by the City Council, except as otherwise provided in the amendment.

#### ARTICLE 44 – SAVINGS CLAUSE

##### § 44.1 Savings clause.

If any provision of this Agreement shall be held invalid by operation of law, or by any tribunal of competent jurisdiction, or if compliance with, or enforcement of, any provision, should be restrained by operation of law, or by any tribunal of competent jurisdiction, the remainder of this Agreement shall not be affected thereby, and the parties shall enter into immediate collective bargaining negotiations for the purpose of arriving at a mutually satisfactory replacement for such provision.

#### ARTICLE 45 – ENTIRE AGREEMENT

##### § 45.1 Complete agreement.

The parties agree that the foregoing constitutes the entire Agreement between the parties, and that no verbal statement shall supersede any part of the Agreement.

##### § 45.2 Zipper clause.

Each party agrees that the other shall not be obligated to bargain collectively with respect to any subject referred to, or covered in, this Agreement, except as otherwise specifically provided in Article 41 of this Agreement.

#### ARTICLE 46 – AGREEMENTS BETWEEN PUBLIC EMPLOYERS AND EMPLOYEE ORGANIZATIONS

##### § 46.1 Section 204-a of the Public Employees' Fair Employment Act.

ANY WRITTEN AGREEMENT BETWEEN A PUBLIC EMPLOYER AND AN EMPLOYEE ORGANIZATION DETERMINING THE TERMS AND CONDITIONS OF EMPLOYMENT OF PUBLIC EMPLOYEES SHALL CONTAIN THE FOLLOWING NOTICE IN TYPE NOT SMALLER THAN THE LARGEST TYPE USED ELSEWHERE IN SUCH AGREEMENT: "IT IS AGREED BY AND BETWEEN THE PARTIES THAT ANY PROVISION OF THIS AGREEMENT REQUIRING LEGISLATIVE ACTION TO PERMIT ITS IMPLEMENTATION BY AMENDMENT OF LAW OR BY PROVIDING THE ADDITIONAL FUNDS THEREFORE, SHALL NOT BECOME EFFECTIVE UNTIL THE APPROPRIATE LEGISLATIVE BODY HAS GIVEN APPROVAL."



§ 46.2 Publishing notice to members.

EVERY EMPLOYEE ORGANIZATION SUBMITTING SUCH A WRITTEN AGREEMENT TO ITS MEMBERS FOR RATIFICATION SHALL PUBLISH SUCH NOTICE, INCLUDE SUCH NOTICE IN THE DOCUMENTS ACCOMPANYING SUCH SUBMISSION AND SHALL READ IT ALOUD AT ANY MEMBERSHIP MEETING CALLED TO CONSIDER SUCH RATIFICATION.

§46.3 Copies to employees.

WITHIN SIXTY (60) DAYS AFTER THE EFFECTIVE DATE OF THIS ACT, A COPY OF THIS SECTION SHALL BE FURNISHED BY THE CHIEF FISCAL OFFICER OF EACH PUBLIC EMPLOYER TO EACH PUBLIC EMPLOYEE. EACH PUBLIC EMPLOYEE EMPLOYED THEREAFTER SHALL, UPON SUCH EMPLOYMENT, BE FURNISHED WITH A COPY OF THE PROVISIONS OF THIS SECTION.

ARTICLE 47 – PRINTING OF AGREEMENT

§ 47.1 Reproducing the agreement.

The City shall print a sufficient number of copies of the signed Agreement within a reasonable time after the Agreement is signed, and shall make distribution to all members of the bargaining unit.

ARTICLE 48 – LABOR-MANAGEMENT COMMITTEE

§ 48.1 Purpose.

A Labor-Management Committee shall be established for the purpose of discussing, at mutually agreeable times, matters of mutual concern, including, but not limited to, questions regarding physical fitness, work schedule and manning operations.

§ 48.2 Physical fitness program.

A Labor-Management Committee agrees to work diligently towards the creation and implementation of a mutually agreeable physical fitness program.

§ 48.3 Composition.

This Committee shall be limited to three (3) labor and three (3) management members and shall meet at the request of either party upon reasonable notice to the other party.

Meetings shall be limited to not more often than once every month, unless otherwise mutually agreed.

§ 48.4 Expenses shared.

Any expenses pursuant to said meetings shall be equally borne by the parties of this Agreement.

#### ARTICLE 49 – PERFORMANCE EVALUATIONS

§ 49.1 Evaluation of Police Officers.

Each Police Officer, shall be evaluated on an annual basis according to the agreed to evaluation procedure as set forth in the Police Department – City of Elmira Policy and Procedure for Performance Evaluation which is attached hereto as Appendix “F,” and made a part of this Agreement. .

#### ARTICLE 50 – AGREEMENT SIGNATURES

§ 50.1 Completeness of agreement.


The foregoing and the annexed thereto constitute the entire Agreement between the parties and no verbal statement shall supersede any of its provisions.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives.

THE CITY OF ELMIRA

THE POLICE BENEVOLENT  
ASSOCIATION OF ELMIRA, NEW  
YORK, INC.

BY:

  
\_\_\_\_\_  
J. William O'Brien, II, Mayor

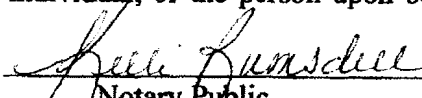
BY:

  
\_\_\_\_\_  
William Bresser, President

Council Resolution No. 2005-058

STATE OF NEW YORK    )  
  ) SS.:  
COUNTY OF CHEMUNG    )


On this 9<sup>th</sup> day of November, 2005 before me, the undersigned a Notary Public in and for said State, personally appeared, J. WILLIAM O'BRIEN, II, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public

**KELLI RAMSDELL**  
Notary Public, State of New York  
Chemung County No. 01RA4845550  
Commission Expires Feb. 28, 2006

STATE OF NEW YORK    )  
  ) SS.:  
COUNTY OF CHEMUNG    )

On this 9<sup>th</sup> day of November, 2005, before me, the undersigned a Notary Public in and for said State, personally appeared, WILLIAM BRESSER, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public

**KELLI RAMSDELL**  
Notary Public, State of New York  
Chemung County No. 01RA4845550  
Commission Expires Feb. 28, 2006

**APPENDIX "A"**  
**SALARY SCHEDULE**

**2004**

<b>Police Officer</b>	<b>3.00%</b>				
	<b>Annual</b>	<b>Bi-weekly</b>	<b>Hourly</b>	<b>Overtime</b>	<b>Holiday</b>
<b>Start</b>	36,625	1,408.65	17.6081	26.4121	140.87
<b>2nd Year</b>	40,026	1,539.46	19.2432	28.8648	153.95
<b>3rd Year</b>	41,361	1,590.81	19.8851	29.8276	159.08
<b>4th Year</b>	42,698	1,642.23	20.5278	30.7918	164.22
<b>5th Year</b>	46,159	1,775.35	22.1918	33.2878	177.54
<b>10th Year</b>	47,473	1,825.88	22.8235	34.2352	182.59
<b>12th Year</b>	48,836	1,878.31	23.4788	35.2183	187.83
<b>14th Year</b>	50,175	1,929.81	24.1226	36.1839	192.98
<b>20th Year</b>	50,748	1,951.85	24.3981	36.5971	195.19
<b>Sergeant</b>					
<b>Base</b>	54,715	2,104.42	26.3052	39.4578	210.44
<b>15th Year</b>	55,004	2,115.54	26.4442	39.6663	211.55
<b>17th Year</b>	55,292	2,126.62	26.5827	39.8741	212.66
<b>20th Year</b>	55,863	2,148.58	26.8572	40.2858	214.86
<b>Lieutenant</b>					
<b>Base</b>	59,262	2,279.31	28.4913	42.7370	227.93
<b>15th Year</b>	59,552	2,290.46	28.6307	42.9461	229.05
<b>17th Year</b>	59,842	2,301.62	28.7702	43.1553	230.16
<b>20th Year</b>	60,412	2,323.54	29.0442	43.5663	232.35
<b>Captain</b>					
<b>Base</b>	63,805	2,454.04	30.6755	46.0132	245.40
<b>15th Year</b>	64,094	2,465.15	30.8143	46.2215	246.52
<b>17th Year</b>	64,384	2,476.31	30.9538	46.4308	247.63
<b>20th Year</b>	64,956	2,498.31	31.2288	46.8433	249.83

**APPENDIX "A"  
SALARY SCHEDULE**

**2005**

Police Officer	3.00%				
	Annual	Bi-weekly	Hourly	Overtime	Holiday
Start	37,723	1,450.88	18.1360	27.2040	145.09
2 <sup>nd</sup> Year	41,227	1,585.65	19.8206	29.7309	158.57
3 <sup>rd</sup> Year	42,602	1,638.54	20.4817	30.7226	163.85
4 <sup>th</sup> Year	43,979	1,691.50	21.1437	31.7156	169.15
5 <sup>th</sup> Year	47,544	1,828.62	22.8577	34.2866	182.86
10 <sup>th</sup> Year	48,897	1,880.65	23.5081	35.2621	188.07
12 <sup>th</sup> Year	50,302	1,934.69	24.1836	36.2754	193.47
14 <sup>th</sup> Year	51,681	1,987.73	24.8466	37.2699	198.77
20 <sup>th</sup> Year	52,271	2,010.42	25.1302	37.6953	201.04
Sergeant					
Base	56,356	2,167.54	27.0942	40.6413	216.75
15 <sup>th</sup> Year	56,654	2,179.00	27.2375	40.8562	217.90
17 <sup>th</sup> Year	56,951	2,190.42	27.3802	41.0703	219.04
20 <sup>th</sup> Year	57,539	2,213.04	27.6630	41.4945	221.30
Lieutenant					
Base	61,040	2,347.69	29.3461	44.0191	234.77
15 <sup>th</sup> Year	61,338	2,359.15	29.4893	44.2340	235.92
17 <sup>th</sup> Year	61,637	2,370.65	29.6331	44.4496	237.07
20 <sup>th</sup> Year	62,224	2,393.23	29.9153	44.8730	239.32
Captain					
Base	65,720	2,527.69	31.5961	47.3941	252.77
15 <sup>th</sup> Year	66,017	2,539.12	31.7390	47.6085	253.91
17 <sup>th</sup> Year	66,316	2,550.62	31.8827	47.8241	255.06
20 <sup>th</sup> Year	66,905	2,573.27	32.1658	48.2488	257.33

**APPENDIX "A"  
SALARY SCHEDULE**

**2006**

<b>Police Officer</b>	<b>3.00%</b>				
	<b>Annual</b>	<b>Bi-weekly</b>	<b>Hourly</b>	<b>Overtime</b>	<b>Holiday</b>
<b>Start</b>	38,855	1,494.42	18.6802	28.0203	149.44
<b>2<sup>nd</sup> Year</b>	42,463	1,633.19	20.4148	30.6223	163.32
<b>3<sup>rd</sup> Year</b>	43,880	1,687.69	21.0961	31.6441	168.77
<b>4<sup>th</sup> Year</b>	45,298	1,742.23	21.7778	32.6668	174.22
<b>5<sup>th</sup> Year</b>	48,971	1,883.50	23.5437	35.3156	188.35
<b>10<sup>th</sup> Year</b>	50,364	1,937.08	24.2135	36.3202	193.71
<b>12<sup>th</sup> Year</b>	51,811	1,992.73	24.9091	37.3636	199.27
<b>14<sup>th</sup> Year</b>	53,231	2,047.35	25.5918	38.3878	204.74
<b>20<sup>th</sup> Year</b>	53,839	2,070.73	25.8841	38.8261	207.07
<b>Sergeant</b>					
<b>Base</b>	58,047	2,232.58	27.9072	41.8608	223.26
<b>15<sup>th</sup> Year</b>	58,354	2,244.38	28.0547	42.0821	224.44
<b>17<sup>th</sup> Year</b>	58,660	2,256.15	28.2018	42.3028	225.62
<b>20<sup>th</sup> Year</b>	59,265	2,279.42	28.4927	42.7391	227.94
<b>Lieutenant</b>					
<b>Base</b>	62,871	2,418.12	30.2265	45.3397	241.81
<b>15<sup>th</sup> Year</b>	63,178	2,429.92	30.3740	45.5610	242.99
<b>17<sup>th</sup> Year</b>	63,486	2,441.77	30.5221	45.7831	244.18
<b>20<sup>th</sup> Year</b>	64,091	2,465.04	30.8130	46.2195	246.50
<b>Captain</b>					
<b>Base</b>	67,691	2,603.50	32.5437	48.8156	260.35
<b>15<sup>th</sup> Year</b>	67,997	2,615.27	32.6908	49.0363	261.53
<b>17<sup>th</sup> Year</b>	68,305	2,627.12	32.8390	49.2585	262.71
<b>20<sup>th</sup> Year</b>	68,912	2,650.46	33.1307	49.6961	265.05

## APPENDIX "B"

### PRESCRIPTION DRUG APPEALS PROCESS

Your Physician might prescribe a brand name drug when another similar brand name drug or generic drug, developed for the same purpose, is available and is preferred for its cost savings to your plan. In this situation, a Pharmacist may contact your Physician and discuss whether a preferred formulary alternative might be appropriate for you. If your Physician agrees, your prescription will be filled with the approved alternative drug. A confirmation will be sent to your Physician and a letter will be sent to you explaining the change. Let your Physician know if you have any questions about a change of prescription or if you prefer the originally prescribed medication. In every case, your Physician will make the final decision about the most appropriate medication for you.

APPENDIX "C"

RETIREE HEALTH INSURANCE OPTION FORM

The choices presented hereunder are governed by the terms and conditions of the Agreement, and said terms and conditions are not modified or altered hereby.

Retiring/Retired Employee: Please choose one of the following options:

144 Months of Health Insurance: By checking this box, you are choosing to participate in the City of Elmira's Health Insurance Program for the 144 months following your retirement date. If you choose this option you will still have the ability to choose the "Pro-Rated Payment-in-Lieu of Participation" option or the "\$2,000 per Year" option at a later date.

Pro-Rated Payment-In-Lieu of Participation: By checking this box, you are choosing to receive a one-time, lump-sum payment of money equal to the following formula, but in no event to exceed Twenty Thousand Dollars (\$20,000.00): 144 months minus the numbers of months for which you have received retiree health insurance, multiplied by \$138.89. If you choose this option, you will no longer be covered or insured by or through the City of Elmira's Health Insurance Program and, additionally, you will not be allowed to re-enter the City of Elmira's Health Insurance Program.

\$20,000.00 Payment-In-Lieu of Participation: By checking this box, you are choosing to receive a one-time, lump-sum payment of Twenty Thousand Dollars (\$20,000.00) in lieu of participating in the City of Elmira's Health Insurance Program. This option may only be chosen at the time of retirement; before any health care coverage for retirees commences pursuant to the terms of the Agreement. Additionally, you will not be allowed to enter or re-enter the City of Elmira's Health Insurance Program.

\$2,000 per Year Payment-In-Lieu of Participation: By checking this box, you are choosing to receive \$2,000.00 in lieu of participating in the City's Health Insurance Program for the 365 consecutive days following receipt of this form by the City. You may reenter the City's Health Insurance Program at any time, but coverage thereunder does not commence until the pro-rated amount of the \$2,000.00 payment is repaid to the City. Coverage is not retroactive.

I, \_\_\_\_\_, hereby affirm that I have read the foregoing options and have chosen the health insurance option indicated by a check-mark above next to said option.

\_\_\_\_\_  
Name of Retiree

\_\_\_\_\_  
Date



## APPENDIX "D"

### DRUG AND ALCOHOL TESTING PROCEDURE

#### I. Purpose

The purpose of this procedure is to establish policies and procedures for drug and alcohol testing of Association members.

#### II. Definitions

- A. Controlled Substances: means those substances listed under that phrase in the Public Health Law as it may be amended from time to time including marijuana.
- B. Reasonable Suspicion: means suspicion based upon specific articulable, objective facts and reasonable inferences that can be drawn from those facts. Reasonable suspicion must be focused on a specific person and must take into consideration the nature of the information received, the reliability of the source of the information, and any corroboration of the information. An anonymous tip standing alone will not suffice to establish reasonable suspicion.

#### III. Policy

- A. No member will illegally possess any controlled substance.
- B. No member shall ingest any controlled substance unless prescribed by licensed medical practitioner.
- C. Members who are using prescription drugs or over the counter medication which has the potential to impair job performance or job function shall, upon reporting for duty, notify their supervisor. Being told of such circumstances by a licensed medical practitioner and/or the inclusion of such information in the documentation or instructions accompanying the medication will constitute "being informed." The member will inform the supervisor of the known side effects and/or possible impairment of such medication and the anticipated period of use. The supervisor receiving this information will assess the information and decide whether to have the member in question report for duty or not, or whether to modify the member's assigned duties.
- D. No member shall ingest alcoholic beverages while on duty or report to work while under the influence of alcohol.
  - 1. Members may ingest alcohol while on duty if necessary to the performance of specialized duties (e.g., undercover assignment) if given permission by a supervisor. In such cases members will not ingest alcohol

to the degree it will impair or diminish their abilities to perform their duties.

2. Members who are called to duty while in an off-duty status are required to report to the supervisor calling them to duty whether and in what amount they have ingested controlled substances, medication, and/or alcohol, and whether their ability to perform their duties has been impaired. Members informing the supervisor that they are unable to report for duty due to this condition will be excused from reporting. If the member states that he or she is able to report for duty the supervisor receiving this information will assess the information and decide whether to have the member in question report for duty or not, or whether to modify the member's assigned duties. Inability to report for duty due to use of alcohol and/or controlled substances may be grounds to remove the member from an assignment requiring callback to duty.
- 
- E. Members will submit to alcohol and/or drug testing in accordance with this order. Members refusing to submit to testing in accordance with this order will be subject to discipline for insubordination. In addition to outright refusal, failure to fully cooperate and perform all functions required for testing will constitute refusal. Also, failure to execute any required consents, or waivers of confidentiality in the results of the testing, will constitute refusal. Members will supply all requested information and medical history or background to the testing facility which is pertinent to the type of test being performed, including all medication recently taken by the member.
  - F. Drug screening will be required as a condition of mutual assignment to the Drug Enforcement Unit, K-9 Unit, and as Detective Bureau Evidence Officer. Drug screening will be repeated annually for members in these assignments. All other drug or alcohol testing must be based on reasonable suspicion in accordance with this order. Testing based on reasonable suspicion shall be ordered only when the employee is on duty or reporting for duty.
  - G. Testing under this order is solely for administrative investigative purposes. The City shall not use any information derived from testing conducted under this order to commence, support, or as evidence in any criminal proceedings under the Penal Law or the Vehicle and Traffic Law. In the event of a motor vehicle accident or collision members may be tested in accordance with Section 1194 of the Vehicle and Traffic Law or other applicable laws and the results of such testing will be admissible as provided by law.
  - H. Upon being informed that a drug or alcohol test is being ordered under this policy a member may acknowledge the existence of a drug and/or alcohol problem to the ordering official and agree to participate in confidential counseling through the City's Employee Assistance Program (EAP). In such cases the test will not be required and no discipline will result provided the member cooperates fully and

participates as directed in the EAP counseling or therapy program.

Opportunities for referral through the EAP for rehabilitation shall be limited as follows:

a) For alcohol use or abuse, a maximum of two (2) referrals during employment with the City of Elmira.

b) For controlled substance use or abuse involving a prescribed medication, a maximum of two (2) referrals during employment with the City of Elmira. For other controlled substance use or abuse a maximum of two (2) referrals during employment with the City of Elmira.

c) In no case shall the City be required to offer an EAP referral through agreement, under this section, more than two (2) times in the employee's career.

d) Referral to the EAP through agreements prior to the ratification of the Agreement which resulted in treatment for alcohol or controlled substance use or abuse shall be not counted as opportunities under this provision.

e) Any positive test results in excess of these provisions may result in termination of the employee, at the discretion of the City.

- I. Any member having a reasonable basis to believe that any employee of the Department is illegally using, or is in illegal possession of any controlled substance, shall immediately report the facts and circumstances to a supervisor.
- J. Any discipline imposed as a result of testing under this order will be in accordance with the Civil Service Law and the Agreement.

#### IV. Procedures

- A. In the event a supervisor has reasonable suspicion that a member who is on duty, or reporting for duty, is or has been engaging in prohibited use of controlled substances and/or is under the influence of alcohol, the supervisor will relieve the member of duty for the remainder of the tour of duty. Whether the member will continue to work as scheduled pending the results of the test, and, if so, in what assignment, will be determined by the Chief of Police.
- B. A supervisor will remain with the member at all times until the testing procedure is complete or the request to conduct the test is denied by the Chief or Deputy Chief.
- C. The supervisor will immediately notify the Chief of Police or a Deputy Chief and relay all facts and circumstances establishing reasonable suspicion. If the Chief

or Deputy Chief concur that reasonable suspicion exists he will order the member to submit to testing. The member will also be informed that refusal to submit to testing will subject the member to discipline.

- D. Testing will be done as soon as possible after reasonable suspicion is established.
- E. Upon being ordered to submit to testing an employee will be given the opportunity to speak either in person or by telephone with an Association representative or attorney. Such representative or attorney may respond and be present throughout the testing process. However, the testing will not be delayed for such consultation.
- F. The supervisor initiating the testing procedure will file a Personnel Complaint Form and Supplemental Report fully documenting the facts and circumstances including the facts and circumstances that established reasonable suspicion. These documents will be forwarded for follow-up as set forth in G.O. 300, *Internal Investigations*, and the *Internal Investigations Manual*.
- G. Alcohol Testing Procedures
  - 1. If there is an on-duty supervisor who is trained to use an alcohol field-screening device (e.g., alco-sensor) such test may be performed as a preliminary test. If the field test does not indicate the presence of alcohol no further testing will be required. If the presence of any level of alcohol is detected then further testing will proceed.
  - 2. The member will be taken by the supervisor to the offices of an independent medical provider retained by the City or other appropriate available medical facility (e.g., Emergency Department).
  - 3. The employee will submit to either urine or blood testing for the presence of alcohol in accordance with standard procedures utilized by the medical facility.
- H. Drug Testing Procedures
  - 1. The member will be taken by the supervisor to the offices of an independent medical provider retained by the City or other appropriate available medical facility (e.g., Emergency Department).
  - 2. The employee will submit to either urine or blood testing for the presence of alcohol in accordance with standard procedures utilized by the medical facility.
- I. A second sample of blood or urine will be taken. The second sample will be retained by the medical facility in accordance with its normal procedures. In the

event of a positive result the second sample will be tested at the expense of the City.

- J. The member may be relieved from duty with pay until the results of the testing are known, upon order of the Chief.
- K. The results of the testing as well as any supporting analysis and the member's medical history to the extent that such history is pertinent to the test results and/or analysis shall be delivered to an independent medical provider retained by the City who shall evaluate the results and provide the City with expert interpretation and consultation regarding the results. This information will also be provided to the member.
- L. If the test results are negative, the member will be informed in writing of such results. At the request of the member a copy of this written notice will be placed in the member's personnel file. The member will be returned to full duty.
- M. If the test results are positive the second sample will also be tested at City expense to confirm the results for the first test. In the event that the positive result is confirmed an internal investigation will proceed or continue in accordance with standard policies and procedures. The member will either be relieved of duty with pay or placed on modified non-enforcement duties at the direction of the Chief of Police pending the outcome of the investigation.

APPENDIX "E"  
LIST OF ARBITRATORS

ROBERT KINGSLEY HULL

DOUGLAS BANTLE

JAMES MARKOWITZ

THOMAS RINALDO

ROBERT RABIN

## APPENDIX "F"

### POLICY AND PROCEDURE FOR PERFORMANCE EVALUATIONS

Performance evaluation is the process by which an employee's contribution to the organization during a specified period of time is assessed. Performance feedback then lets employees know how well they have performed in comparison with the standards of the organization. Performance appraisal and feedback can be an emotionally laden process that dramatically affects employees' attitudes toward the organization and themselves. If used effectively, performance evaluations can improve employee motivation and performance. If used inappropriately, it can have disastrous effects.

Appraisal and feedback can occur informally, as when a supervisor notices and comments on good or poor performance. A more formal method is the structured annual performance review, in which a supervisor assesses each employee's performance using some official appraisal procedure. One of the ongoing goals of the Elmira Police Department is to increase efficiency and effectiveness. Through the use of performance evaluations, the Elmira Police Department strives to commend and encourage exemplary performance as well as correct and improve upon detrimental work habits.

I. **PURPOSE:** The purpose of a performance evaluation system is multi-faceted. Primarily, it provides a formal means for the Supervisory officer(s) to record and communicate personal observations and impressions to top level management on the performance of individual officers. Secondly, it will receive input and provide feedback to the officer(s) being rated. In addition, it will enable the Elmira Police Department to reach a level of professionalism required to successfully be accredited under New York's Statewide Law Enforcement Accreditation Program.

II. **POLICY:** It shall be the policy of the Elmira Police Department to document a cumulative account of individual performance, submitted over a period of time, which can do much toward identifying the outstanding officer(s), determining additional training needs of officer(s), and trace development of those characteristics deemed essential and necessary for the successful execution of job duties. Ultimately, performance assessments will be used to assist in the growth and career development of each employee.

#### III. PROCEDURES:

A. In order for the Performance Evaluation Process to meet its intended goals and produce the desired results, it is essential that Supervisory personnel maintain the following standards:

- \* Consistency: Allocation procedures should be consistent across persons and time;

- \* Bias Suppression: Personal self-interest in the allocation process must be prevented;
- \* Accuracy: Decisions must be based on accurate information;
- \* Correctability: Opportunities must exist to enable decisions to be modified;
- \* Representativeness: The allocation process must represent the concerns of all recipients; and
- \* Ethics: Allocations must be on prevailing moral and ethical standards.

Supervisory personnel should bear in mind that an integral part of his/her function is to provide management with valuable insights for future procedure, Supervisory personnel should utilize the System Guidelines which appear on the following pages of this Policy and Procedure for performance evaluations and remember the purpose and goals of that shared in the preceding text.

B. This Policy and Procedure shall be implemented effective January 1, 1999.

The parties agree that during the life of this Agreement they may meet to discuss problems that may arise in the implementation of this Evaluation Procedure.

## SYSTEM GUIDELINES FOR PERFORMANCE EVALUATION

### SYSTEM GUIDELINES

The following are the guidelines for the administration of the Department personnel performance evaluation system. These guidelines are to be followed unless amended through negotiations between the parties.

### MISSION

The mission of the Department is to provide the best possible community oriented law enforcement designed to protect life, property, maintain order, while assuring fair equal treatment for all.



## PLAN

The intended purpose of this performance evaluation system is to provide an objective method by which all sworn employees of the Department may be evaluated on their individual performance as it relates to their position and assignment. Additionally, the purpose of this system shall serve as a vehicle to increase professionalism within the Department.

Performance evaluation systems are designed with specific objectives in mind. This system provides data for the following:

## OBJECTIVES

1. Counseling the officer as to his/her job performance relative to specific strengths and weaknesses;
2. Identify personal goals and objectives within the framework of the Department and its programs and suggest methods for the attainment of such goals and objectives;
3. Clarify performance expectations and provide guidance concerning duties and responsibilities;
4. Set employee standards of performance;
5. Determining training needs; Consideration in disciplinary actions;
6. Information regarding personnel selection for transfers and assignments;
7. Design jobs and work systems to accomplish organizational goals; and
8. Promote and motivate employees for performance and productivity.

## APPROACH

### A. General Guidelines

1. Performance assessments will be based only on behavior observed or identified during the period of the assessment. There will be no oral or written testing.
2. The performance of all sworn officers will be evaluated during the month of the officer's birthday for the preceding twelve (12) month period. Probationary employees will be evaluated at least quarterly (See Section B(1) below).
3. The employee's Commanding Officer and subordinate supervisors, if any, will consult with each other in rating the employee and in supplying documentation and explanatory comments. The performance evaluation interview will be conducted by the Commanding

Officer or subordinate supervisor(s) designated by the Commanding Officer, or may be conducted jointly by the Commanding Officer and subordinate supervisor(s).

- a) Sergeants assigned to the patrol platoons will be evaluated jointly by their respective Lieutenants and Captains. Lieutenants assigned to the patrol platoons will be evaluated by their respective Captains. Sergeants assigned to the Detective Bureau will be evaluated by the Commanding Officer of the Detective Bureau. Commanding Officers will be evaluated by the Deputy Chief/Operations in consultation with the Chief of Police.

4. At least one (1) of the raters must have supervised the employee for a period of at least ninety (90) days to conduct the performance evaluation process. If the rater has not supervised the employee for at least ninety (90) days the rater will consult with the employee's prior supervisors to enhance the quality of the performance assessment.

#### B. Probationary Employee Guidelines

1. Probationary Police Officers who have completed the Basic Academy program will be evaluated at least quarterly until the completion of their probationary period.

- a) Recruit Officers are probationary for a maximum of twelve (12) months from date of hire.
- b) Lateral Officers are probationary for a maximum of six (6) months from date of hire.

#### C. Rating Process

1. Supervisors will use established job descriptions and classification, applicable General Orders, Rules and Regulations, and other directives to discuss job expectations with the employee. They will ensure that each employee being evaluated is aware of:

- a) his/her required duties;
- b) the standards of quality and productivity he/she is expected to meet; and
- c) Department criteria by which he/she will be evaluated.

This discussion will be held at the beginning of each assessment period. Supervisors should also provide periodic feedback to employees throughout the assessment period.

2. Complete performance appraisal summaries and forms:

- a) Non-supervisory Officers will be given a rating as set forth below for performance elements 1 through 24. Supervisory Officers (i.e., Sergeants, Lieutenants, and Captains) will be given a rating as set forth below for

performance elements 1 through 48.

- b) The following ratings and definitions will be used:

**NOT APPLICABLE:** If the statement does not apply to this position or if no observations of performance of this task have been observed either directly or indirectly, this rating should be given.

**UNSATISFACTORY:** An employee who receives this rating has not met minimally acceptable Department standards of performance. Immediate improvements is necessary. An employee who receives this rating only occasionally does this activity when necessary or appropriate to do so.

**SATISFACTORY:** An employee who receives this rating has demonstrated an adequate and acceptable level of performance. The performance meets Department standards. An employee who receives this rating usually does this activity when necessary or appropriate to do so.

**OUTSTANDING:** An employee who receives this rating has consistently demonstrated extremely effective and high levels of performance. The performance is very strong and little improvement could be made. An employee who receives this rating consistently does this activity when necessary or appropriate to do so.

3. During the assessment period supervisors will utilize the Performance Evaluation Documentation Form to contemporaneously document observed performance or behaviors. The supervisor completing the form will retain it if it relates to one of his or her subordinates or forward it to the employee's Commanding Officer. They will be attached to the Performance Evaluation Form.
4. Submit explanatory comments whenever performance ratings are unsatisfactory or outstanding. This does not preclude the supervisor from submitting explanatory comments on average ratings.
5. Discuss the following with each employee who has been rated:
  - a) the performance appraisal;
  - b) methods of attaining desired performance objectives; and
  - c) the employee's Department related training record.
6. Allow the employee to make verbal and written comments regarding the appraisal.

7. Meet with the employee when an unsatisfactory pattern of performance is identified. The Supervisor will:
  - a) Advise the employee of the specific deficiency;
  - b) Develop an action plan with the employee designed to assist the employee in achieving the desired results;
  - c) Document the meeting, the deficiency and the plan, in writing with copies given to the employee and forwarded through the chain of command to the Deputy Chief/Operations; and
  - d) Within sixty (60) days take steps to determine if the deficiency has been corrected and will document same with copies given to the employee and forwarded through the chain of command to the Deputy Chief/Operations.

This meeting should take place as soon as practical upon identification of the deficiency. In no case will it occur less than ninety (90) days prior to the end of the rating period, unless the deficiency is discovered during that ninety (90) day period.

#### D. Employee Review and Agreement

Employees being rated will read and sign their assessments (indicating the receipt of the form only) and will be given a copy. The employee may make written responses within ten (10) working days of receipt of the document, which will then be attached to the original assessment document.

#### E. Final Supervisory Review

After ten (10) working days from the employee's receipt of the document, the performance assessment will be reviewed and signed by each supervisory officer in the employee's chain of command.

### RETENTION AND DISTRIBUTION OF FORMS

#### A. Retention

All completed reports will be retained indefinitely after termination/retirement from employment.

B. Distribution

1. Probationary Employees

Probationary employees' evaluations and associated forms will be retained by the Chief of Police.

2. Permanent Employees

Assessment reports and forms, to include protests and the protest disposition, will be retained by the Chief of Police. If an officer wishes to review his/her personnel file, a written request must be filed with the Chief of Police.

**ELMIRA POLICE DEPARTMENT**

**Performance Evaluation Report**

Officer's Name:

Assignment:

\_\_\_\_\_

\_\_\_\_\_

Rater's Name and Rank:

Assignment:

\_\_\_\_\_

\_\_\_\_\_

Rating Period: From \_\_\_\_\_ to \_\_\_\_\_

Date Evaluation Completed: \_\_\_\_\_

Date of Performance Evaluation Interview: \_\_\_\_\_

GENERAL STANDARDS *Complete for all sworn personnel	Not Observed (Not Applicable)	Unacceptable	Needs Improvement	Meets Standard	Exceeds Standards	Outstanding
<b>APPEARANCE</b>						
1. General Appearance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>ATTITUDE</b>						
2. Acceptance of Feedback	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Attitude Toward Police Work	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Morale	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Motivation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>KNOWLEDGE</b>						
6. Dept. Policies/Proc/Rules & Reg.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. City/County Ordinances	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. Vehicle and Traffic Law	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. Penal Law	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. Criminal Procedure Law	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>PERFORMANCE</b>						
11. Radio Skills						
A. Codes and Procedures	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B. Listening & Comprehension	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
C. Transmissions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12. Orientation & Response Time	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13. Driving Skills						
A. Normal Conditions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B. Stress Conditions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14. Officer Safety						
A. Normal Conditions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B. Suspicious Conditions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
15. Control of Conflicts						
A. Voice Command	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B. Physical Command	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16. Investigative Skills						
A. Interview & Interrogation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B. Preliminary Investigations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
C. Follow-up Investigations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17. Problem Solving & Decision	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

18. Field Performance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
A. Normal Conditions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B. Stress Conditions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
19. Use and Care of Equipment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
REPORT WRITING						
20. Accuracy/Completeness	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
21. Organization/Detail	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
22. Grammar/Spelling/Neatness	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
RELATIONSHIPS (on duty)						
23. With Citizens/Community	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
24. With Department Members	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SUPERVISORY STANDARDS						
*Complete only for Sergeants, Lieutenants, and Captains.						
LEADERSHIP						
25. Policies and Procedures	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
26. Delegation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
27. Availability/Person. Observation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
28. Improves Morale	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
29. Proactive	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
30. Command of Field Situations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
31. Suggestions/Recommendations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
32. Positive Image	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
INTERPERSONAL						
33. Resolution of Conflicts	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
34. Encouragement/Coaching	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
35. Respectful/Courteous	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
COMMUNICATIONS						
36. Communication w/ Subordinates	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
37. Listening Skills	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
38. Referral of Information	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
39. Communication with Superiors	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
REPORTS AND RECORDS						
40. Generates Reports and Records	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
41. Review of Reports & Documents	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DISCIPLINE						
42. Resolution of Potential Complaints	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
43. Documentation of Complaints	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
44. Investigation of Complaints	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
45. Fair, Objective, Equitable	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
46. Fair, Impartial, Uniform	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PERFORMANCE EVALUATION						
47. Coaching/Timely/Feedback	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
48. Fully Documents Ratings	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Complete the following section for all sworn personnel. Attach additional sheets if necessary.

Officer's Strengths:

See Attachment

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Areas That Need Improvement, if any:

See Attachment

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Reviews, Comments, and Expectations

See Attachment

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OFFICER'S COMMENTS

See Attachment

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\_\_\_\_\_  
Officer's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Rater's Supervisor  
(if applicable)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Rater's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Deputy Chief/Operations

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Rater's Supervisor  
(if applicable)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Chief of Police

\_\_\_\_\_  
Date



DEFINITIONS OF RATINGS

- NOT APPLICABLE:** If the Standard does not apply to this position or if no observations of performance of this task have been observed either directly or indirectly, this rating should be given.
- UNACCEPTABLE:** Officer's performance consistently falls below Department standards. Performance does not demonstrate the ability and/or willingness to perform to Department standards.
- NEEDS IMPROVEMENT:** Officer's performance occasionally falls below Department standards. Improvement is required to consistently meet Department standards.
- MEETS STANDARDS:** Officer's performance constantly meets Department standards. Performs assigned duties to an acceptable level through demonstrated application of skills.
- EXCEEDS STANDARDS:** Officer's performance normally exceeds Department standards. Performs assigned duties in a manner indicating an exceptional understanding of essential duties and functions.
- OUTSTANDING:** Officer's performance significantly and consistently exceeds Department standards. Results were far in excess of the requirements of this position. An officer who receives this rating has consistently demonstrated high levels of motivation and performance.

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EXPLANATION OF RATING STANDARDS

*General Standards for All Personnel*

- 1) **GENERAL APPEARANCE**  
  
Uniform neat and clean, uniform fits and is worn properly, weapon and issued equipment is clean and operative, hair within regulations.
  
- 2) **ACCEPTANCE OF FEEDBACK**  
  
Accepts criticism in a positive manner and applies it to improve performance and further learning.

- 3) **ATTITUDE TOWARD POLICE WORK**  
Demonstrates an active interest in career and in police responsibilities.
- 4) **MORALE**  
Shows positive attitude toward job.
- 5) **MOTIVATION**  
Shows self-initiated activities in both patrol and acquiring knowledge for police work.
- 6) **DEPARTMENT POLICIES AND PROCEDURES**  
Demonstrates knowledge of Departmental policies and procedures, rules and regulations, and ability to apply this knowledge under field conditions.
- 7) **CITY AND COUNTY ORDINANCES**  
Demonstrates knowledge of local ordinances and ability to apply that knowledge in the field.
- 8) **VEHICLE AND TRAFFIC LAW**  
Knows and recognizes commonly used sections of the New York State Vehicle and Traffic Law. Applies appropriate sections.
- 9) **PENAL LAW**  
Knows and recognizes commonly used sections of the New York State Penal Law. Applies appropriate sections.
- 10) **CRIMINAL PROCEDURE LAW**  
Follows required procedure and commonly encountered situations. Conducts proper searches and seizes evidence legally. Arrests within legal guidelines.
- 11) **RADIO SKILLS**
  - A. Codes and Procedures – follows policies and accepted procedures. Has good working knowledge of codes and languages.
  - B. Copies own radio transmission and is generally aware of radio traffic connected to adjoining posts.
  - C. Uses proper procedures with clear, concise, and complete transmission.

12) ORIENTATION AND RESPONSE TIME

Is aware of location on patrol. Can relate location to destination. Arrives within reasonable amount of time.

13) DRIVING SKILLS

- A. Normal Conditions – Obeys traffic laws when appropriate. Maintains control of vehicle. Performs vehicle operation while maintaining an alertness to surrounding activities. Drives defensively.
- B. Stress Conditions – Uses red lights and sirens properly, maintains control of vehicle.

14) OFFICER SAFETY

- A. Normal Conditions – follows accepted safety procedures, follows and understands them.
- B. Suspects/Suspicious Conditions – follows accepted safety procedures with suspects, suspicious persons, and prisoners.

15) CONTROL OF CONFLICTS

- A. Voice Command – speaks with authority in calm clear voice, proper selection of words and knowledge of when and how to use them.
- B. Physical Command – obtains and maintains control through the use of proper amount and type of force.

16) INVESTIGATIVE SKILLS

- A. Interview and Interrogations – generally uses proper questioning techniques, elicits most available information and records same. Establishes proper rapport with most victims and witnesses. Controls the investigation of most suspects, and provides a proper Miranda admonition.
- B. Preliminary Investigations – follows proper investigatory procedures in all but the most difficult/usual cases. Is generally accurate in the diagnosis of the nature of the offense committed. Collects, tags, and logs evidence properly. Connects evidence with suspect when apparent.
- C. Follow-Up Investigations – conducts thorough follow-up investigation of assigned cases. Utilizes all possible sources of information. Works cooperatively with other EPD officers and investigators, personnel from other law enforcement

agencies, and prosecutors. Knows and applies applicable legal guidelines. Develops cases with legally sustainable evidence. Makes active efforts to locate and apprehend suspects.

17) PROBLEM SOLVING/DECISION MAKING

Able to reason through a problem and come to an acceptable conclusion in routing situations. Makes reasonable decisions based on information available. Makes decisions without assistance.

18) FIELD PERFORMANCE

A. Normal Conditions – properly assesses routine situations, determines appropriate actions and takes same.

B. Stress Situations – maintains self control in most situations, determines proper course of action and takes it. Does not allow the situation to further deteriorate.

19) USE AND CARE OF EQUIPMENT

Uses and cares for Department equipment per written and demonstrated guidelines.

20) REPORT ACCURACY AND COMPLETENESS

Reports contain accurate information and required details.

21) REPORT WRITING/ORGANIZATION AND DETAIL

Completes report organizing information in a logical manner.

22) REPORT WRITING/GRAMMAR/SPELLING/NEATNESS

Reports are legible and grammar is at an acceptable level, spelling is acceptable and errors are rare. Errors, if present, do not impair an understanding of the report.

23) RELATIONSHIPS (ON DUTY) – WITH CITIZENS/COMMUNITY

Is courteous, friendly, and empathetic. Communicates in professional, unbiased manner. Is service oriented. Good “non-verbal” skills.

24) RELATIONSHIPS (ON DUTY) – WITH DEPARTMENT MEMBERS

Adheres to the chain of command and accepts role in the organization, good peer relationships and is accepted as a group member.

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*Supervisory Standards*

The following standards are completed for supervisors only.

LEADERSHIP

25) POLICIES AND PROCEDURES

Explains and gains commitment from subordinates on new policies and procedures.

26) DELEGATION

Delegates authority and responsibility to subordinates with appropriate guidelines and follow-up.

27) AVAILABILITY/PERSONAL OBSERVATION

Remains available and accessible to respond to emergencies and the needs of subordinates, superiors, and others; personally observes subordinates to ensure proper performance of duties.

28) IMPROVES MORALE

Works to improve morale and job satisfaction of subordinates.

29) PROACTIVE

Proactively identifies problems and issues and takes action to resolve them in a positive manner.

30) COMMAND OF FIELD SITUATIONS

Assumes command of field situations or incidents as required and reacts properly and quickly.

31) SUGGESTIONS/RECOMMENDATIONS

Makes suggestions and recommendations for improvements, enhancements, or changes in policies, procedures, training, or equipment.

32) POSITIVE IMAGE

Projects a positive image of the Elmira Police Department

### INTERPERSONAL

33) RESOLUTION OF CONFLICTS

Works actively to resolve conflicts and disagreements in a positive manner.

34) ENCOURAGEMENT/COACHING

Encourages and supports subordinates in their efforts to improve, e.g., provides constructive and positive criticism when coaching subordinates; provides direction and instruction for improvement; acknowledges and gives credit for the accomplishments of others.

35) RESPECTFUL/COURTEOUS

Treats all persons, including subordinates and superiors, in a respectful, courteous, and professional manner.

### COMMUNICATIONS

36) COMMUNICATION WITH SUBORDINATES

Keeps subordinates aware of work-related matters.

37) LISTENING SKILLS

Listens to others, including subordinates.

38) REFERRAL OF INFORMATION

Refers matters or information to the appropriate component of the Department.

39) COMMUNICATION WITH SUPERIORS

Ensures that superior officers are kept informed of issues, problems, and other matters affecting the platoon, bureau, or unit.

### REPORTS AND RECORDS

40) GENERATES REPORTS AND RECORDS

Generates necessary reports and records in a timely and accurate manner and in accordance with Department policies.

41) REVIEW OF REPORTS AND DOCUMENTS

Effectively reviews reports and other documents (e.g., accusatory instruments) of subordinate officers to ensure that they are complete, accurate, and submitted in a timely manner.

DISCIPLINE

42) RESOLUTION OF POTENTIAL COMPLAINTS

Attempts to resolve or mediate potential personnel complaints in accordance with Department policy.

43) DOCUMENTATION OF COMPLAINTS

Accurately and completely documents personnel complaints and forwards them for action.

44) INVESTIGATION OF COMPLAINTS

Investigates assigned personnel complaints thoroughly, objectively, and in accordance with Department policies and procedures.

45) FAIR, OBJECTIVE, EQUITABLE

Handles disciplinary matters and potential disciplinary matters in a fair, objective, and equitable manner and does not allow personal feelings to affect decisions.

PERFORMANCE EVALUATION

46) FAIR, IMPARTIAL, UNIFORM

Conducts performance evaluations of subordinates in a fair, impartial, and uniform manner.

47) COACHING/TIMELY FEEDBACK

Instructs, coaches, and directs subordinates in properly doing their jobs and provides them timely feedback, guidance, and support for improvement.

48) FULLY DOCUMENTS RATINGS

Fully documents and justifies ratings given to subordinates in performance evaluation process.