

## INTERGOVERNMENTAL AGREEMENT

**THIS INTERGOVERNMENTAL AGREEMENT** (this “Agreement”) is made and entered into by and between the Illinois Finance Authority, an executive agency of the State of Illinois, (the “Authority”) and the Office of the State Fire Marshal, an executive agency of the State of Illinois, (the “OSFM”) (collectively, the Authority and the OSFM may, for convenience purposes only, be referred to as the “Parties” and each individually as a “Party”).

### W I T N E S S E T H

**WHEREAS**, Article VII, Section 10 of the Constitution of the State of Illinois, adopted in 1970, expressly permits units of local government to contract or otherwise associate with the State of Illinois to obtain or share services and to exercise, combine, or transfer any power or function, in any manner not otherwise prohibited by law or ordinance; and

**WHEREAS**, the Intergovernmental Cooperation Act (5 ILCS 220/1, *et seq.*) authorizes public agencies, which include agencies of the State of Illinois government, to jointly enjoy and/or exercise powers, privileges, functions or authority with other public agencies, except where specifically and expressly prohibited by law; and

**WHEREAS**, the Intergovernmental Cooperation Act authorizes public agencies to enter into intergovernmental agreements with other public agencies; and

**WHEREAS**, the Authority has been created by the Illinois Finance Authority Act, 20 ILCS 3501/801-1, *et seq.* (the “Act”); and

**WHEREAS**, the OSFM has been created by the State Fire Marshal Act, 20 ILCS 2905/0.01, *et seq.*; and

**WHEREAS**, the Fire Truck Revolving Loan Program continued and re-enacted by Section 825-80 of the Act (20 ILCS 3501/825-80) (the “Fire Truck Program”), the Fire Station Revolving Loan Program established by Section 825-81 of the Act (20 ILCS 3501/825-81) (the “Fire Station Program”), and the Ambulance Revolving Loan Program established by Section 825-85 of the Act (20 ILCS 3501/825-85) (the “Ambulance Program” and, together with the Fire Truck Program and the Fire Station Program, the “Loan Programs”) are jointly administered by the Authority and the OSFM; and

**WHEREAS**, moneys transferred or appropriated to the Loan Programs are held by the Illinois State Treasury in special funds known as the Fire Truck Revolving Loan Fund, the Fire Station Revolving Loan Fund, and the Ambulance Revolving Loan Fund (collectively, the “Funds”); and

**WHEREAS**, , Section 825-80, Section 825-81 and Section 825-85 of the Act require OSFM to pay all moneys currently on deposit, and all moneys to be deposited in the future, (collectively, the “Deposits”) in the Funds to the Authority for the sole purpose of funding loans under the Loan Program; and

**WHEREAS**, the Authority shall use the Deposits as set forth herein, and in accordance with the Act, and shall reasonably cooperate with the OSFM in efforts to maximize the number of participants in the Loan Programs and to obtain additional funding for the Loan Programs so as to increase capitalization in the Funds; and

**WHEREAS**, based on the foregoing, the Parties have concluded that it is necessary and advisable to enter into this Agreement to govern the use and administration of the Deposits, streamline the management of the Loan Programs, and improve the financial execution and results thereof; and

**NOW, THEREFORE**, in consideration of the foregoing recitals, the mutual promises and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

1. **USE OF THE DEPOSITS.** The Authority shall use the Deposits to fund loans to borrowers participating in the Loan Programs subject to the terms and conditions set forth in the Act and as follows:

- a) All moneys transferred by the OSFM to the Authority from the Fire Truck Revolving Loan Fund, as well as any interest earned on moneys on deposit in Authority accounts, shall be used for loans to fire departments and fire protection districts to purchase fire trucks and brush trucks and no other purpose as authorized by Section 825-80 of the Act (20 ILCS 3501/825-80);
- b) All moneys transferred by the OSFM to the Authority from the Fire Station Revolving Loan Fund, as well as any interest earned on moneys on deposit in Authority accounts, shall be used for loans to fire departments and fire protection districts to construct, rehabilitate, remodel, or expand fire stations or acquire land for the construction or expansion of fire stations and no other purpose as authorized by Section 825-81 of the Act (20 ILCS 3501/825-81); and
- c) All moneys transferred by the OSFM to the Authority from the Ambulance Revolving Loan Fund, as well as any interest earned on moneys on deposit in Authority accounts, shall be used for loans to fire departments, fire protection districts, and non-profit ambulances services to purchase ambulances and no other purpose as authorized by Section 825-85 of the Act (20 ILCS 3501/825-85).

2. **ADMINISTRATION OF THE DEPOSITS; PROPOSED RULE CHANGES.** The Deposits shall be administered consistently with the requirements of the Act and those rules from time-to-time adopted by the Authority and the OSFM in accordance with the Illinois Administrative Procedures Act to administer the Loan Programs (the “Rules”). The Parties agree and acknowledge that the administration of the Deposits and any proposed Rule changes shall be undertaken consistently with the Parties’ intent to deploy the Deposits to smaller, under-resourced fire departments, fire protection districts,

township fire departments, and non-profit ambulance services. The Parties agree to consult and cooperate with each other in the drafting of any proposed Rule changes. The Parties further agree to promptly review all changes to any Rules proposed by the other Party and to cooperate in the adoption of such proposed changes that are consistent with the Parties' intent as expressed herein, in order to increase ongoing collaboration between the Parties, ensure consistency in the other Party's corresponding Rules, streamline day-to-day management of the Loan Programs, and reduce audit exposure while maintaining transparency and accountability.

3. **MANAGEMENT OF THE FIRE MARSHAL PROGRAMS.** In addition to the Act and the Rules, the following terms shall govern the administration of the Fire Marshal Programs:

- a) The Authority's financial due diligence and closing fee for each loan made pursuant to the Loan Programs shall be Five Hundred and No/100 U.S. Dollars (\$500.00) per closing;
- b) The interest rate on loans made pursuant to the Loan Programs, with the exception of brush trucks, shall be at zero percent (0%) interest. Except if the borrower has one or more investment grade credit ratings at or above Baa3 or BBB- or the equivalent from any nationally recognized municipal credit rating agency, the interest rate shall be equivalent to fifty percent (50%) of the mean of the Bond Buyer's 20-Bond General Obligation Index for the twelve (12) month period ending as of October 1<sup>st</sup> of the then applicable year (also known as the process for determining the interest rate under the joint Illinois Environmental Protection Agency - Authority Clean Water Initiative). Such interest rate shall be reset each January 1<sup>st</sup> during the term of this Agreement. Loans issued under this agreement shall be simple interest loans and the rates shall remain fixed for the term of the loan agreement.
- c) Pursuant to Section 825-80(b) of the Act, the interest rate to borrowers for the purchase of brush trucks shall be as follows: (1) two percent (2%) rate of simple interest per year for a brush truck if both the chassis and the apparatus are built outside of Illinois; (2) one percent (1%) rate of simple interest per year for a brush truck if either the chassis or the apparatus is built in Illinois; or (3) zero percent (0%) rate of interest for a brush truck if both the chassis and the apparatus are built in Illinois.
- d) The Authority's Chief Financial Officer, or his designee, shall serve as an *ex officio* member of the Loan Application Review Committee for each of the Loan Programs for the purpose of reviewing loan documentation to ensure that all documents necessary for the Authority to conduct its loan review are present.

The Parties will cooperate to cause the expeditious adoption of any changes to the Rules necessary to implement the foregoing terms.

4. **EFFORTS TO OBTAIN ADDITIONAL FUNDING AND JOINT MARKETING.**

The Authority shall reasonably cooperate with OSFM and undertake reasonable efforts to obtain additional funding for the Loan Programs with the intention of using increased capitalization to provide more frequent, ongoing funding to prospective borrowers. The Authority and OSFM shall undertake joint marketing efforts with the intention of increasing fire departments', fire protection districts', township fire departments' and non-profit ambulance services' knowledge of the Loan Programs. Notwithstanding the foregoing, the Parties agree and acknowledge that a failure to obtain such additional funding shall not constitute a breach of this Agreement by the Authority.

5. **TERM.** The term of this Agreement shall commence upon the Effective Date (as hereinafter defined) and shall continue for a period of one (1) year thereafter unless earlier terminated as set forth herein. The Agreement may be renewed for successive one (1) year periods upon the mutual agreement of the Parties. Either Party may terminate the Agreement upon 30 days written notice to the other Party. Notwithstanding the foregoing, this Agreement shall terminate upon the effective date of a legislative enactment discontinuing the Loan Programs or discontinuing administration by either Party.

6. **OSFM'S RIGHT TO AUDIT.** OSFM, and its authorized representatives, shall have the right to audit, to examine, and to make copies or extracts from all financial and related records (in whatever form they may be kept, whether written, electronic, or other) relating to or pertaining to Loan Programs kept by or under the control of the Authority, including, but not limited to, those kept by the Authority, its employees, agents, assigns, successors, and subcontractors. The books and records, together with the supporting or underlying documents and materials shall be made available to OSFM and its authorized representatives, upon request and seven (7) business days' notice to the Authority, during normal business hours at the Authority's office or place of business. In the event that no such location is available, then the books and records, together with the supporting or underlying documents and records, shall be made available for audit, examination and copying at a time and location that is convenient for OSFM.

7. **AUTHORITY'S RIGHT TO AUDIT.** The Authority, and its authorized representatives, shall have the right to audit, to examine, and to make copies or extracts from all financial and related records (in whatever form they may be kept, whether written, electronic, or other) relating to or pertaining to Loan Programs kept by or under the control of OSFM, including, but not limited to, those kept by OSFM, its employees, agents, assigns, successors, and subcontractors. The books and records, together with the supporting or underlying documents and materials shall be made available to the Authority and its authorized representative, upon request and seven (7) business days' notice to OSFM, during normal business hours at OSFM's office or place of business. In the event that no such location is available, then the books and records, together with the supporting or underlying documents and records, shall be made available for audit, examination and copying at a time and location that is convenient for the Authority.

8. **ANNUAL REPORTS FROM THE AUTHORITY.** The Authority shall provide

annual reports to OSFM with the first annual report being due within 30 days of June 30, 2015 (hereinafter, "Annual Reports"). Each Annual Report submitted to OSFM shall include the following information for each of the Loan Programs: 1) bank statement(s) or any other appropriate statement(s) that shall include, at a minimum, the beginning and ending balances in any Authority fund holding any Deposits and/or loan repayment funds and a detailed accounting of the source of receipts into, as well as payments from any of the aforementioned Authority funds; and 2) the current outstanding loan balances for each loan recipient.

9. **ANNUAL REPORTS FROM OSFM.** OSFM shall provide annual reports to the Authority with the first annual report being due within 30 days of June 30, 2015. Each Annual Report submitted to the Authority shall include the following information for each of the Loan Programs: 1) applications received; and 2) budgeted information for upcoming fiscal years.
10. **RECITALS.** The abovementioned recitals, as contained in the paragraphs constituting the preambles to this Agreement, are full, true, and correct and are hereby incorporated into this Agreement as if fully restated herein.
11. **NOTICES.** Any notice, request, demand, or other communication provided for by this Agreement shall be in writing and shall be deemed to have been duly received upon: (a) actual receipt if personally delivered and the sender received written confirmation of personal delivery; (b) receipt as indicated by the written or electronic verification of delivery when delivered by overnight courier; (c) three (3) calendar days after the sender posts notice with the U.S. Post Office when sent by certified or registered mail, return receipt requested; or (d) when delivery is refused. Notice shall be sent to the addresses set forth below, or to such other address as either Party may specify in writing.

If to the Authority:  
Illinois Finance Authority  
Two Prudential Plaza  
180 N Stetson Ave., Ste 2555  
Chicago, IL 60601  
Attn: Executive Director

If to the OSFM:  
Office of the State Fire Marshal  
100 West Randolph Street, Suite 4-600  
Chicago, Illinois 60601  
Attn: State Fire Marshal

With a Copy to:  
Illinois Finance Authority  
Two Prudential Plaza  
180 N Stetson Ave., Ste 2555  
Chicago, IL 60601  
Attn: Office of the General Counsel

With a Copy to:  
Office of the State Fire Marshal  
100 West Randolph Street, Suite 4-600  
Chicago, Illinois 60601  
Attn: Office of the General Counsel

12. **SEVERANCE.** The provisions of this Agreement shall be deemed severable and the invalidity or unenforceability of any one or more of the provisions hereof shall not affect the validity and enforceability of the other provisions hereof. Provided, however, that if permitted by applicable law, any invalid, illegal or unenforceable provision may be

considered in determining the intent of the Parties with respect to the provisions of this Agreement.

13. **ENTIRE AGREEMENT.** This Agreement contains the entire agreement and understanding by and between the Parties. No representations, promises, agreements, or understandings, written or oral, not herein contained shall be of any force or effect. No change or modification hereof shall be valid or binding unless the same is in writing and signed by authorized representatives of each Party.
14. **MODIFICATION & WAIVER.** No provision of this Agreement may be modified, waived or discharged unless such waiver, modification, or discharge is agreed to in writing and signed by each Party or an authorized representative thereof. No waiver by either Party regarding any breach of a condition or provision of this Agreement shall be deemed a waiver of similar or dissimilar provisions or conditions of this Agreement. No agreements or representations, oral or otherwise, express or implied, with respect to the subject matter hereof have been made by either Party that are not expressly set forth in this Agreement.
15. **HEADINGS.** The headings used herein form no substantive part of this Agreement, are for the convenience of the Parties only, and shall not be used to define, enlarge or limit any term of this Agreement.
16. **CONSTRUCTION AND GOVERNING LAW.** Construction and interpretation of this Agreement shall at all times and in all respects be governed by the laws of the State of Illinois
17. **RIGHT TO COUNSEL.** Each Party acknowledges that it was informed that it has the right to consult with an attorney before signing this Agreement and this paragraph shall constitute written notice of the right to be advised by legal counsel. Additionally, each Party acknowledges that it had an opportunity to and did negotiate the terms of this Agreement. Each Party acknowledges that it has been given a reasonable amount of time to consider and sign this Agreement.
18. **COUNTERPARTS & FACSIMILE.** This Agreement may be executed in counterpart originals, each of which shall be deemed to be an original with the same effect as if the signatures thereto were on the same instrument. A signature affixed to this Agreement and transmitted by facsimile shall have the same effect as an original signature.
19. **RELATIONSHIP.** This Agreement shall not be deemed or construed to evidence or create an employment, joint venture, partnership, or other agency relationship between the Parties hereto.
20. **COMPLIANCE WITH LAWS.** All provisions of this Agreement shall be carried out and discharged in full compliance with all applicable laws.

*(SIGNATURE PAGE TO FOLLOW)*

THE PARTIES TO THIS AGREEMENT HAVE READ THE FOREGOING AGREEMENT IN ITS ENTIRETY AND FULLY UNDERSTAND EACH AND EVERY PROVISION CONTAINED HEREIN.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the later date written below (the "Effective Date").

Executed:



Authorized Representative of the Illinois Finance Authority

Printed Name: Christopher B. Meistere

Title: Executive Director

April 7, 2014  
Date



Authorized Representative of the Office of the State Fire Marshal

Printed Name: Lawrence T. Matkaitis

Title: STATE FIRE MARSHAL

4/8/14  
Date