

COLLECTIVE BARGAINING AGREEMENT

BETWEEN

THE DISTRICT OF COLUMBIA GOVERNMENT

AND

THE INTERNATIONAL ASSOCIATION OF FIREFIGHTERS

LOCAL 36, AFL-CIO, MWC

Fiscal Years 2011-2014

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PREAMBLE

Section A:

This Agreement is entered into between the District of Columbia Government and the Fire and Emergency Medical Services Department (the "Department"), (jointly referred to as the "Employer") and International Association of Fire Fighters, Local 36, AFL-CIO (the "Union").

Section B:

The Employer and the Union recognize the need to provide efficient service to the public and to maintain the quality of service. Further, both parties agree to the need for establishing and maintaining a sound labor-management relationship and mutually agree to continue working toward this goal. Each side has been afforded the opportunity to put forth all its proposals and to bargain in good faith and both parties agree that this Agreement expresses the results of their negotiations.

ARTICLE 1 **RECOGNITION**

The Union is the exclusive bargaining representative for a bargaining unit defined as:

All sworn employees of the D.C. Fire and Emergency Medical Services Department through the rank of Captain.

ARTICLE 2 **UNION RIGHTS**

Section A - Union Membership:

Pursuant to D.C. Official Code §1-617.06, all employees shall have the right to organize or refrain from organizing a labor organization free from interference, restraint, or coercion; to form, join, or assist any labor organization or to refrain from such activity; and, to bargain collectively through representatives of their own choosing as provided in this subchapter or to refrain from such activity. The Employer and the Union recognize the right of any employee to refrain from joining the Union. Any employee choosing to do so shall be free from coercion, restraint, or discrimination.

Section B - Release of Information:

Upon request, the Employer shall provide to the Union, within a reasonable period of time, reasonable information, statistics and records reasonably related to the Union's performance of its functions in negotiating, administering, and enforcing this collective bargaining agreement or legislative and regulatory information reasonably related to bargaining unit employees; provided, such information is not restricted by law or is not confidential.

ARTICLE 3

UNION REPRESENTATION AND DUES CHECKOFF

Section A - Union Representation:

Pursuant to D.C. Official Code § 1-617.11(a), the Union shall have the right to act for and negotiate agreements covering all employees in the unit and shall be responsible for representing the interest of all such employees without discrimination and without regard to membership in the labor organization: Provided, however, that the employee pays dues or service fees consistent with law.

Section B - Dues Checkoff:

With respect to each employee who has already executed an appropriate Union dues authorization form along with the required D.C. official form (currently a D.C. Form 277) authorizing deduction of dues for the Union and each employee who after the execution of this Agreement voluntarily executes an appropriate Union dues authorization form and D.C. Form 277 (or other appropriate form) authorizing dues deduction for the Union, the District of Columbia Government shall deduct his/her dues each pay period and remit the dues to the Union. A charge of \$0.10 per deduction per pay period payable to the Office of Labor Relations and Collective Bargaining (OLRCB) will be imposed upon the Union for providing such check-off service. This charge shall increase to \$ 0.15 per deduction per pay period starting October 1, 2005. A copy of each executed form for cancellation of voluntary Union dues shall be forwarded to OLRCB.

Section C - Service Fee:

(1) Upon written proof that sixty percent (60%) of the employees in the bargaining unit are members of the Union, the Employer shall, as soon as practicable, begin bi-weekly deduction of a service fee from the pay of non-union members. The service fee, to be established by the Union in an amount equal to or less than Union dues, shall be subject to the same processing charge applicable to Union dues as described in Section B above (again, payable to OLRCB), and will be remitted to the Union at the same time and in the same manner as Union dues.

(2) Any dispute concerning the amount, propriety or method of collection of the service fee shall be solely between the affected bargaining unit members and the Union. The Union will provide an internal review procedure for non-members regarding the amount of the service fee.

Section D - Hold Harmless:

The Union shall indemnify, defend and otherwise hold the Employer harmless for mistakes, omissions, timely deductions made or not made, etc. Should any employee pursue a claim for recovery of any monies under this Article, it shall be a matter solely between the Union and the employee.

ARTICLE 4 **EQUAL EMPLOYMENT OPPORTUNITY**

Section A - Policy:

It is the continuing policy of the Employer that all employees are assured equal opportunity in employment matters. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination which is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act. Discrimination in violation of this act will not be tolerated and violators will be subject to disciplinary action. The Union agrees to cooperate with and assist the Employer in achieving these objectives.

Section B - Advisory Committee:

In furtherance of this policy a joint Equal Opportunity Advisory Committee shall be established and shall meet at least quarterly. The Committee shall consist of five (5) employees of the Fire Department, three (3) to be selected by the Fire Chief, and two (2) to be selected by the Union from the bargaining unit. A suitable number of alternates shall be selected by both the Employer and the Union. It is understood that the Committee shall meet with no more than five (5) members present, three (3) for the Employer and two (2) for the Union.

Section C - Advisory Committee Functions:

The Advisory Committee will perform the following functions:

- (1) Assist in continuing the development of affirmative action programs, recommending programs that foster the equitable treatment of members of minority groups, including the recommendation of policies that promote (a) the encouragement to seek employment; (b) the assurance of receiving consideration for initial employment and subsequent promotion based on merit; and (c) the enjoyment of equal opportunities for career development.
- (2) Identify possible problem areas in equal employment opportunities and suggest corrective action.
- (3) Develop specific and realistic plans (including both short and long range objectives) for achieving definite and measurable progress with regard to equality of treatment and opportunity.
- (4) Promote understanding and support of the Equal Employment Opportunity (EEO) Program.
- (5) Report progress made relative to the objectives which have been established.

Section D - Miscellaneous:

- (1) Allegations of discrimination based on statutorily protected individual employment rights including but not limited to the D.C. Human Rights Act may not be grieved under this Agreement and shall be filed with the appropriate agency or court as provided by the relevant statute.
- (2) Members of the Fire Department selected as EEO Counselors shall receive appropriate training to be defined by Management before assuming that position so they can effectively carry out their responsibilities as Counselors.
- (3a) During the course of conducting an investigation into the merits of any EEO complaint, the Counselor shall interview all principal parties, including any member of the Department alleged to have engaged in a discriminatory act.
- (3b) Before a final decision with respect to an EEO complaint is made by the Fire Chief, or his designee, the individual member(s) of the Department alleged to have engaged in any discriminatory act(s) shall be afforded a reasonable opportunity to be heard by the official responsible for making such final decision. A copy of any such final decision shall be promptly transmitted to the individual member(s) alleged to have engaged in any discriminatory act(s).
- (4) Any person accused of having engaged in any discriminatory action or having violated EEO regulations shall be afforded the opportunity of having a representative of his/her choice present for advisory purposes only at each stage of the EEO investigatory process.

ARTICLE 5
MANAGEMENT RIGHTS

The provisions of the D.C. Official Code Section 1-617.08 (2001 Ed.) prescribe the management rights and as such are beyond the scope of negotiations.

ARTICLE 6
EXISTING RIGHTS AND BENEFITS

All terms and conditions of employment not covered by the terms of this Agreement shall continue to be subject to the Employer's direction and control; provided, however, that if the Employer desires to institute a change that impacts upon a term(s) or condition(s) of employment of the entire bargaining unit or any group of employees, the following procedure shall apply:

- (1) The Employer shall provide the Union advance notice if possible;
- (2) Upon request of the Union, the parties shall promptly negotiate about the impact of such change;
- (3) If the parties reach impasse, the parties may jointly request the assistance of a third-party to resolve the impasse, through mediation, fact-finding or other mutually agreeable

process. Either party may invoke "last best offer" item by item interest arbitration within a reasonable period after reaching impasse.

- (4) Should an arbitrator's award issue pursuant to the terms of this Article, the arbitrator's award shall be final and binding on both parties, and, at the arbitrator's direction, may be retroactive.

ARTICLE 7 **NO STRIKE OR LOCK OUT**

Section A -Authority:

Under the provisions of D.C. Official Code, Section 1-617.05 (2001 ed.), it is unlawful to participate in, authorize or ratify a strike.

Section B - Strikes:

The term "strike" as used herein means a concerted refusal to perform duties or any unauthorized concerted work stoppage or slowdown. At no time shall employees be required to act as strike breakers; nor shall employees be required to go through picket lines; except to perform their duties as required at fires or other scenes of emergency, and to perform duties that are essential to the operation of the Fire Department; provided, however, that nothing in this section shall be construed to authorize conduct in violation of § 1-617.05.

Section C - Lockouts:

No lockout of employees shall be instituted by the Employer during the term of this Agreement, except that the Fire Department in a strike situation retains the right to close down any facilities to provide for the safety of employees, equipment or the public.

ARTICLE 8 **INVESTIGATIONS AND SUPERVISORY QUESTIONING**

Section A - Policy:

This Agreement recognizes that the employee is granted certain constitutional rights and privileges and duly respects these liberties. However, the Employer and the Union also agree that certain circumstances will arise which will lead to an investigation or questioning of employees for a violation of applicable rules and regulations. It is in this context that the following sections will apply.

Section B - Definitions:

To accomplish the objective of Employee Rights, the following definitions are applicable:

- (1) **Investigation** - A duly authorized investigation as delegated from the Fire Chief, when there is reason to believe a disciplinary action will probably be taken.
- (2) **Questioning** - Questions asked by an immediate supervisor regarding a violation of the Rules and Regulations, Order Book, or other applicable regulation or law. Questioning may or could lead to a duly authorized investigation.

Section C - Employee Rights:

- (1) In the course of an investigation, if the employee is to be interrogated, he/she shall be notified verbally of his/her right to remain silent only in the event that information provided may subject the employee to criminal prosecution.
- (2) If an employee can reasonably expect discipline to result from an investigatory interview, at the request of the employee, questioning shall be delayed for no longer than twenty-four (24) hours in order to give the employee an opportunity to consult with a Union representative.
 - (a) An employee's Union representative may be present at all investigatory questioning sessions that may result in the interviewed employee's discipline under this Article, but may not answer questions on behalf of the employee nor shall the Union representative or the employee be permitted to disrupt the interview process. In no event, however, may a Union representative be present in any criminal questioning session conducted by any law enforcement agency. If the questioning session is of an administrative nature that may result in discipline, a Union representative may be present.
 - (b) In no case shall a Union representative be permitted to represent an employee subject to any form of questioning if the Union representative is himself/herself implicated in the investigation. In any situation in which a Union representative is disqualified for that reason, the employee to be questioned shall have the right to select an alternate Union representative to be present during the investigatory interview. Union representatives who attend questioning sessions shall be bound by the same confidentiality restrictions as the person being questioned.
- (3) Prior to commencement of any such questioning described in this Section, the member being questioned shall be informed of the name, rank and assignment of the official in charge of the questioning and the name, rank and assignment of persons to be present during the questioning.
- (4) The questioning will take place at a reasonable time, unless the exigencies of the situation require otherwise in the judgment of the official in charge of the investigation.
- (5) Polygraph Examinations:
 - (a) Polygraph tests shall be administered only with the consent of the employee, except where in the context of an investigation, the Department reasonably believes the test is necessary to discover or alleviate an immediate threat to the integrity of government operations or an immediate hazard to the Agency, to other District employees or to the employee himself or herself or to public health, safety or welfare. The Department shall promptly notify the Union whenever a polygraph test is administered without employee consent.

- (b) Except in those limited exigent circumstances identified in Section (a) where a polygraph examination may be necessary, any person who refuses to submit to a polygraph test shall not be subject to discipline or other adverse action as a result of that refusal.
- (6) Caucuses between the Union representative and the employee must be completed before the start of the investigatory questioning. With the understanding in Section 2(a), above, that neither the employee nor the Union representative may disrupt the interview process, the Union representative may confer privately with the employee in the interview room during questioning.

Section D:

- (1) The member being questioned shall be informed as to the nature of the investigation and the name of complainants, if known. Any other information that would jeopardize the security of the investigation need not be disclosed.
- (2) If the matter under investigation involves a possible violation of criminal law, at the point the investigation focuses upon the member being questioned as a possible suspect, that person shall be advised of his/her right to remain silent.

Section E:

If a questioning session is recorded, all portions of the session shall be recorded with proper notations as to when breaks and off-the-record discussions began and ended. If a recording device is used, the individual being interviewed shall be notified. Upon written request from the individual being interviewed or from the Union (with permission from the employee), copies of tapes will be made available at the requesting party's own expense.

Section F - Preclusions:

This Agreement does not preclude the normal day-to-day supervision involving the exchange of questions and answers between supervisor and employee.

Section G - Employee Refusal:

In either case, investigation or questioning, the willful refusal of an employee to answer such questions may be considered adequate grounds for recommending dismissal of such employee.

ARTICLE 9
GRIEVANCE PROCEDURE

Section A - Definition:

A grievance means a complaint by a party or parties that:

- (1) There has been a violation, misapplication or misinterpretation of the Agreement, and/or
- (2) There has been a violation, misapplication or misinterpretation of a Department rule, regulation or order which affects a term(s) or condition(s) of employment. No complaint of a violation of Article 4 (Equal Employment Opportunity) of this Agreement may be

asserted as a grievance under this procedure. Appeals/complaints concerning Equal Employment Opportunity matters shall be handled exclusively by the appropriate legal authority having jurisdiction over such appeals/complaints.

Section B - Procedure:

- (1) An individual grievance may be raised by the affected employee with or without Union representation; provided, however, that the Union may, upon the employee's request, associate itself therewith at any time in the grievance/arbitration process. If a grievance is common to all members of a Division or all bargaining unit members, it may be filed by the Union as a class grievance directly at Step 3 of the grievance procedure.
- (2) In the case where an employee is initially represented in a grievance by a representative other than the Union representative and then desires Union representation in the same grievance, the acceptance of such representation shall be at the sole option of the Union.
- (3) Grievances shall be settled as follows:

Step 1 - A discussion between the employee or employees and the official at the lowest level capable of resolving the grievance who is not a member of the certified bargaining unit.

At the employee's option, there may be present at such discussion a representative of the Union or any other representation selected by the aggrieved employee.

Step 2 - If the dispute is not settled at Step 1 within ten (10) days, then within five (5) days thereafter, the matter shall be reduced to writing, and submitted to the official referred to in step 1, and again considered. An individual grievance common to all members of a Division or to all members of the bargaining unit must be signed by the Union President or his/her authorized designee.

Step 3 - If the dispute is not settled at Step 2 within ten (10) days after reduction to writing, then the dispute shall be submitted in writing within another five (5) days to the Fire Chief. The Fire Chief or designee, and those he/she may further name, shall meet with the persons referred to in Step 1 within twenty (20) days of the submission if either party requests a meeting. The Fire Chief or designee shall render a decision on the grievance in writing within twenty (20) days of that meeting or, if no meeting is held, within twenty (20) days of the submission.

Step 4 - If the Union is dissatisfied with such decision, it may submit the dispute to arbitration by notifying the Fire Chief and the OLRCB in writing within ten (10) days.

Section C - Procedure for Arbitration:

- (1) Within ten (10) days from the OLRCB's receipt of the request to arbitrate, both parties shall request the Federal Mediation and Conciliation Service (FMCS) to refer a panel of seven (7) impartial arbitrators. The request shall require FMCS to refer only arbitrators (a) who are on the roster of labor arbitrators maintained by the American Arbitration

Association (AAA), and (b) whose primary offices are located in the District of Columbia or a contiguous jurisdiction in Virginia (Alexandria, Arlington or Fairfax Counties, or wholly incorporated municipalities within those counties) or Maryland (Montgomery or Prince George's Counties, or wholly incorporated municipalities within those counties). Upon receipt of the panel, the parties will select one of the names on the panel as mutually agreeable or, if there is no mutually agreeable arbitrator, each party alternately strikes a name from the submitted panel until one remains. If, upon receipt of the first list, the parties agree that none of the submitted arbitrators are acceptable, the parties shall jointly request a new panel whose members meet the same requirements as listed above.

- (2) The Arbitration hearing shall be informal and the rules of evidence shall not strictly apply.
- (3) The hearing shall not be open to the public or persons not immediately involved, except those persons present on behalf of the respective parties.
- (4) Witnesses (other than the parties) shall be sequestered upon the request of either party.
- (5) Either party has the right to have a verbatim stenographic record made at its own expense. The expense shall be shared upon mutual agreement.
- (6) The arbitrator's award shall be in writing and shall set forth the arbitrator's findings, reasoning and conclusions within thirty (30) days after the hearing or after the arbitrator receives the parties' briefs, if any, whichever is later.
- (7) The arbitrator's award shall be final and binding upon both parties, however, either party may exercise its right to obtain review of the arbitrator's award in an appropriate forum or forums.
- (8) The arbitrator shall not have the power to add to, subtract from or modify the provisions of this agreement through the award.
- (9) A statement of the arbitrator's fee and expenses shall accompany the award. The fee and expenses of the arbitrator shall be borne equally by the parties.

Section D - General:

- (1) No matter shall be entertained as a grievance unless it is raised within thirty (30) days of the occurrence of the event giving rise to the grievance or within thirty (30) days of the employee's (in the case of individual employee grievances brought by an individual or by the Union) or Union's (in the case of a class grievance filed by the Union on behalf of all members of a division or on behalf of the entire bargaining unit) knowledge of the occurrence of the event giving rise to the grievance, whichever occurs later.
- (2) Any grievance not advanced to the next Step by the employee or the Union representative within the time limit specified in that Step shall be deemed dropped. If the department

does not respond within the time limit specified in any Step, the employee or the Union may invoke the next Step, treating the lack of response as a denial of the grievance.

- (3) All time limits shall be strictly observed unless the parties mutually agree to extend said time limits. "Days" means calendar days.
- (4) The presentation and discussion of grievances shall be conducted at a time and place which will afford a fair and reasonable opportunity for both parties and witnesses to attend. When discussions and hearings required under this procedure are held during work hours of the participants, all unit employees entitled to be present (i.e., the grievant, witnesses, and the grievant's representative) shall be excused with pay for that purpose. The Union shall present to the Fire Chief or his designee a list of all persons who need to be released to participate in an arbitration hearing within a reasonable period of time prior to the hearing date to permit the Employer to arrange appropriate releases from duty for the participants. Participants shall only be released for the length of time necessary for that participant to take part in the arbitration proceedings.
- (5) If the Union is not a party to a proceeding under this Article, then the disposition of the dispute shall not be a precedent with respect to the Union.
- (6) The fact that a grievance is raised by an employee, regardless of its ultimate disposition, shall not be recorded in an employee's personnel file or in any file or record utilized in the promotion process; nor shall such fact be used in any recommendations for job placement; nor shall any employee be placed in jeopardy or be subject to reprisal for having followed this grievance procedure.

ARTICLE 10 **EMPLOYEE INFORMATION**

The Employer shall timely notify the Union of any changes to the District of Columbia Official Code (Code), the District Personnel Manual (DPM), or any other law, regulation, or policy having an impact on members of the bargaining unit, and shall provide the Union, at no cost, with copies of such changes.

ARTICLE 11 **CORRESPONDENCE**

Two (2) copies of all Special Orders, General Orders, Memoranda, Assistant Fire Chief Orders, Deputy Fire Chief Orders, and any other Order or directive issued during the term of this Contract that affects Fire Department Policy or which will have an impact on members of the bargaining unit will be provided to the Union when posted or made available to members of the Department by facsimile, hand-delivery, or electronic mail.

ARTICLE 12 **REPRESENTATION ON BOARDS AND COMMITTEES**

Section A - Non-Voting Participants:

It is agreed that the Union may appoint a non-voting participant to the following permanent Boards and Committees: Advisory Board of Awards, Suitability Board, Casualty Investigation Committee, and Accident Investigation Board.

Section B - Observer:

It is further agreed that the Union may appoint an observer to the: (a) Rating Panel considering Merit Promotion, and (b) Regular Fire Trial Board and Special Fire Trial Board unless there is objection by the defendant.

Section C - Ad Hoc Committees:

The Employer will consult with the Union whenever ad hoc committees are formed to determine whether or not Union representation would be appropriate. If it is mutually agreed that Union representation would be appropriate, the Union may appoint a participant.

Section D - Benefits Committee:

The Union may appoint one member to any city-wide joint labor-management benefits committee, if such a committee is established during the term of this agreement. The Union's delegate to this committee shall have the same rights and privileges while serving on the committee as any other union representative.

Section E - Information:

Union participants, observers or representatives serving on the committees identified in this Article shall not have a right to receive or review confidential information or information that the Employer is prohibited by law from disclosing to them.

Section F - Notification:

The Department shall make every reasonable effort to provide the Union advance notice of board and committee meetings on which they participate to facilitate notification of their representatives.

ARTICLE 13 **LABOR-MANAGEMENT CONFERENCES**

Section A - Scope:

There shall be established a joint labor management committee which shall meet at least monthly unless the parties, by mutual consent, waive the meeting. The parties are under no obligation to reach agreement related to Departmental policy; however, to the extent the parties agree to modify Departmental policy during the term of this Agreement, such Agreements shall be effective.

Section B - Request For Meetings or Conferences:

Requests for meetings or conferences may be initiated by the Employer or the Union. Such requests may be made orally or in writing. The person requesting or arranging the conferences shall arrange for mutually agreeable dates, times, and location of meeting, and explain the nature of the subject(s) to be discussed. In either case, all meetings shall be held during working hours except under unusual circumstances. Attendance at such meetings will be limited to a representative group directly concerned with the subject(s) of discussion.

Section C - Purpose:

Meetings or conferences may be held for such purposes as:

- (1) dissemination of information;
- (2) the submission of suggestions for improving efficiency, economy of operation, working conditions, employee services;
- (3) proposing revisions of existing regulations, policies, and procedures;
- (4) to resolve other problems of any groups of employees;
- (5) to avoid future grievances; or
- (6) to further promote harmonious relations between the Employer and the Union.

Section D - Limitations:

Appeals, grievances or problems of individual employees are not subject to discussion at any meetings under the provisions of this Article.

Section E - Labor-Management Partnerships:

- (1) Consistent with the principles of the D.C. Labor-Management Partnership Council (LMPC), the parties agree to establish and support appropriate partnerships.
- (2) Membership on the Department's LMPC shall be open to designated high-level union officials and management, as determined by the LMPC, who will meet regularly to consider such issues as they choose to discuss. The Union's delegate to the LMPC shall have the same rights and privileges as any other representative. Decisions by the LMPC are by consensus only.

ARTICLE 14
LEAVE FOR CONVENTIONS

It is agreed that all duly authorized delegates or alternate delegates (maximum of seven (7)), to the I.A.F.F. Convention will be granted annual leave to whatever extent necessary for their travel to, attendance at, and return from the site of the Convention. The Union shall provide the Employer with reasonable notice of the participants requiring leave to attend.

ARTICLE 15
OFFICIAL TIME: LABOR-MANAGEMENT ACTIVITIES

Section A - Application:

It is agreed that the principal officers of Local 36, the current elected members of the Board of Directors of Local 36, and others delegated by the President of Local 36, may be granted leave to attend meetings, seminars, or conferences which are of mutual interest, benefit, or concern to the Department and Local 36, and/or for the purpose of participating in bona fide labor relations activities, provided that the request is made with two (2) days notice or, if the Union has less than (2) days notice of the event for which leave is requested, with reasonable notice and approval is granted by the Deputy Fire Chief- Executive Officer.

Section B - Meetings Specified:

The above-mentioned members shall be excused without charge to annual leave for the following purposes:

- (1) Meetings with officials of the District Government or Federal Government and/or the Congress of the United States – maximum two (2) members;
- (2) Meetings of the Public Protection Committee (for the purposes of determining service awards) – maximum of two (2) members;
- (3) Meetings of the Federation of Citizens Associations (one meeting per year) – maximum of two (2) members;
- (4) Any meetings which are jointly attended by labor and management representatives;
- (5) Participating in bona fide labor relations activities.

Section C - Requests For Leave:

All requests for leave under the provisions of this Article shall be made by the President of Local 36 or his/her delegate, to the Deputy Fire Chief-Executive Officer. Reasonable notice shall be provided to the Deputy Chief, Operations, or the member's Division Head, in Divisions other than Operations, to participate in activities described in Section B of this Article. Union representatives who engage in labor management activities during working hours shall indicate on the "Official Time Report" the activity performed and the employee involved where appropriate. The President of Local 36 will prepare quarterly reports showing the use of Official time, reasons for the use and the individuals who used official time under this article. The President will submit these reports to the Deputy Fire Chief— Executive Officer on January 15, and July 15, of each year.

ARTICLE 16 **FUNERAL LEAVE**

Section A:

Employees in the Operations Division are entitled to twenty-four (24) hours, and employees assigned to a day work schedule to three (3) working days, of leave, without loss of pay, leave, or service credit to make arrangements for or to attend the funeral or memorial service for an immediate relative. In addition, the Employer shall grant an employee's request for annual or compensatory time up to twenty-four (24) hours, for employees in the Operations Division, or three (3) working days for employees assigned to a day work schedule, upon the death of an immediate relative. Approval of additional time shall be at the Employer's discretion. However, requests for leave shall be granted unless the Department's ability to accomplish its work would be seriously impaired.

Section B:

For the purpose of this section, "immediate relative" means the following relatives of the employee: spouse (including a person identified by an employee as his/her "domestic partner" as defined in Title 32, Chapter 7 of the D.C. Official Code, and related laws), and parents thereof, children (including adopted and foster children and children of whom the employee is legal guardian) and spouses thereof, parents, grandparents, grandchildren, brothers, sisters, and spouses thereof. For the purposes of certification of leave, employees shall provide a copy of the obituary or death notice, a note from a funeral professional or a death certificate upon the Employer's request.

Section C:

An employee in the Operations Division is entitled to not more than twenty-four (24) hours of leave, and an employee assigned to a day work schedule is entitled to not more than three (3) days of leave, without loss of pay, leave, or service credit to make arrangements for or to attend the funeral or memorial service for a family member who died as a result of a wound, disease or injury incurred while serving as a member of the armed forces in a combat zone to the extent provided in D.C. Official Code §1-612.03(n)(2001 Edition).

ARTICLE 17 **FUNERAL EXPENSE**

If death results from an injury/illness sustained in the performance of duty, the District of Columbia government shall pay, to the spouse or other appropriate personal representative of the deceased, funeral and burial expenses in the sum of five thousand dollars (\$5,000).

ARTICLE 18 **OVERTIME**

Section A – Overtime:

It is agreed that, to the extent permitted by law, all overtime worked by employees in Salary Classes 1 through 7 shall be paid 1-1/2 times the regular hourly rate.

To the extent permitted by law, overtime shall apply to all call back, work on assigned days off, court appearances on off duty time which results from an employee's official duty, and continuation of duty. Members whose duties include fire suppression shall be paid overtime for all hours worked in excess of 42 hours averaged over a four-week period.

Section B – Distribution:

The Employer will make every effort to ensure that the opportunity for overtime shall be distributed and rotated equally among employees. The Employer also agrees to maintain a roster for all employees, indicating overtime worked and overtime refused, and such roster will be made available to the Union. The Union may consult with the Employer concerning the administration of this provision.

Section C – Minimum Pay:

To the extent permitted by law, all employees shall be entitled to a minimum of four (4) hours overtime pay for call backs, unless an employee's regularly scheduled tour of duty intervenes, in which case an employee shall be paid overtime from the time he/she assumed duty until the start of the regularly scheduled tour of duty.

Section D – Employee Option:

At the Employee's option, he/she may choose compensatory time instead of overtime; such compensatory time will be earned on a time and a half basis. If not used within four pay periods, all accrued FLSA compensatory time shall be paid to the employee at the applicable rate.

ARTICLE 19
TRANSFERS, REASSIGNMENTS, AND DETAILS

For the purposes of this agreement the terms: "Transfer" shall mean any action by the employer that assigns an employee to an agency within the District of Columbia Government other than the agency where the employee was originally employed. "Reassignment" shall define the movement of members from assignment to assignment within the Fire and Emergency Medical Services Department. "Detail" shall define the temporary movement of members where it is expected that a member will return to his/her original assignment.

Section A: Employer Rights:

It is recognized that the Employer has the right to transfer, reassign or detail employees, however, (i) transfers, reassignments and details shall not be used as a form of reprisal or discipline except where permitted by the parties' agreements with respect to disciplinary procedures, and (ii) transfers, reassignments and details shall not be made in a manner that is arbitrary, capricious or inconsistent with Article 4 (Equal Employment Opportunity) of the Agreement.

Section B: Procedures:

(1) Notification

- a. The Department shall provide six (6) days advance notification to any bargaining unit member who is to be transferred or reassigned.
- b. Quarterly, the Department will advise the Union in writing of any transfers, details or reassignments which became effective in the preceding quarter.

(2) Involuntary Transfers and Reassignment

When an employee is transferred or reassigned other than at his or her request, and the employee believes that the transfer or reassignment may be illegal or improper under the terms of this Article, the employee shall, upon written request, be informed by a superior of the reason for the transfer or reassignment. An explanation will be provided to the requesting employee and, if the explanation is "efficiency of the service," further explanation shall be provided by the Department upon request of the requesting employee.

(3) Voluntary Reassignments

It is recognized by the Employer and the Union that employees have the right to request reassignment from one assignment to another. The Union also recognizes Management's rights under Article 5 of this Agreement. In view of the aforementioned, the following criteria are established regarding voluntary reassignment requests:

(a) Requests may be made for positions or assignments which are available or become available in the near future.

(b) Requests shall be in writing on Department Form 10 to the designated Departmental official(s).

The request shall contain the following information:

- i) reasons for the request;
- ii) time in grade;
- iii) any educational qualifications relevant to the position;
- iv) current and previous assignments; and
- v) any other qualifications of the member relevant to the position.

(c) Requests shall be endorsed and forwarded in a timely manner.

(d) Requests shall remain valid for the calendar year submitted.

i) When more than one employee has requested to be reassigned to a particular position, in determining which request will be granted the Employer shall consider the criteria identified in Section (3)(b) of this Article.

ii) Mutual exchanges of assignment between members of the same salary class shall be permitted upon a determination that the employees are qualified for the assignments requested and concurrence of the appropriate bureau head.

- iii) Form 10 shall be returned to the member within thirty (30) days of its submission with all endorsements and attachments.

ARTICLE 20 **PROMOTIONS**

Section A - Promotional Process:

The Promotional Process shall be as follows:

- (1) To be eligible for promotion to the positions of Sergeant, Lieutenant and Captain, employees shall complete the following:
 - (a) Application as specified in the examination announcement;
 - (b) Qualifying job related examination;
 - (c) Evaluation by an assessment center panel;
 - (d) Physical examination.
- (2) Notification and Exam Dates
 - (a) **2004 Examination.** Notification for the 2004 promotional examination will be issued in January 2004. The promotional exam will be given in June 2004. For the purpose of determining length of service eligibility, service date computations shall be made as of June 15, 2004. All service and educational point computations are to be made using a June 15, 2004 date.
 - (b) **2006 Examination.** Notification for the 2006 promotional year will be issued six months before the examination. The regular qualifying examination for 2006 shall be held during the month of April 2006. For the purpose of determining length of service eligibility for this examination only, the service requirement shall be reduced by two months. All service and educational point computations are to be made using a June 15, 2006 date.
 - (c) **Subsequent Examinations.** Notification for subsequent promotional exams will be issued six months before the examination. The regular qualifying examination shall be held during the month of April. For the purpose of determining length of service eligibility, service date computations shall be made as of April 15th of the exam year. All service and educational point computations are to be made using an April 15 date.
 - (d) In certain circumstances, a “special exam” may be required to meet the needs of the Department. The notification for any special examination shall be two months prior to the date of the special examination.
- (3) In the notices of examination, the Fire Chief shall set forth the relative weight that shall be given to the written examination score and the assessment center score in compiling the relative standing lists for each qualifying examination.
- (4) Notice of any text and reference materials that may be used for study purposes will be given to members of the Fire Department at least six (6) months in advance of an impending qualifying examination, unless extraordinary circumstances exist, or unless the Union agrees to a later date.

- (5) A closing date shall be set for the receipt of applications for each qualifying examination. Applications received after such date will not be considered.
- (6) Tie breaker procedures: In accordance with District Personnel Manual (DPM) Instruction No. 3-4, dated September 19, 2000, Section 4, Application of Residency Preference in the Merit Staffing Process, Subsection b., Assembled Examinations (e.g., Police Officers, Correctional Officers, and Firefighters), Residency Preference is applied in the promotion process by listing preference candidates ahead of non-preference candidates with the same score, solely to break numerical ties. In the case of residency preference candidates with identical numerical scores or non-residency preference candidates with identical numerical scores, ties will be broken in descending order beginning with the candidate whose Social Security Number has the highest last digit.
- (7) After the scores from a promotional qualifying examination and assessment center evaluation are determined by the Department, the Department shall add points to each candidate's scores as follows:
 - (a) Points for Service: 1/12 point, but never more than five (5) points in all, for each completed month ending on the qualifying date of service eligibility over the applicable length of service prerequisite, computed on the basis of the individual's record.
 - (a) Points for Education: 1/30 point, but never more than four (4) points in all, for each semester hour of a course relevant to Fire Science and Fire Administration which has been successfully completed at a recognized institution of higher learning on or before June 15 of the examination year. Points for credit earned on a quarterly basis shall be computed at 2/3 of value of courses completed on a semester basis. A joint Labor-Management Board shall be established by the Fire Chief to determine course relevancy and whether the credits were earned at a recognized institution of higher learning.
 - (b) Application procedures for points for education shall be issued by the department and must be strictly adhered to.
- (8) When the final relative standing qualifying lists are completed, each candidate will be notified in writing of his/her final score and his/her relative standing. Reasonable efforts will be made to promptly notify the candidates.
- (9) The period of eligibility on the relative standing promotion list shall be for two (2) years commencing October 16 of the examination year and the expiration date of eligibility shall be on the October 15th two (2) years subsequent to such qualifying examination.
- (10) The promotion of any candidate will be subject to a physical examination to determine his/her physical fitness for the new position, provided that the candidate has not had an annual physical within 120 days preceding his/her promotion. In the case of a candidate with a performance of duty (POD) illness or injury, the candidate shall be promoted, but shall not be eligible to participate in additional promotional examinations until that employee has returned to full duty.

- (11) Employees with disciplinary charges pending before a Trial Board shall be conditionally promoted. A conditional promotion may only be terminated, and the employee returned to his/her previous rank, upon recommendation of a Trial Board.

Section B - General Principles:

The foregoing promotion procedure implements the following general principles:

- (1) Assurance of a fair evaluation of the qualification of candidates;
- (2) Establishment of clear procedures and adequate records so that it may be readily determined that promotion actions are taken in accordance with established policies and procedures;
- (3) Promotions shall be made on a rank order, non-discriminatory basis;
- (4) Promotions within the unit will be made consistent with the equal employment opportunity laws and any affirmative action plan of the District.

Section C - Acting in a Higher Salary Class:

Any unit member who is to be promoted to a higher salary class in the unit may be reassigned by the Department on an acting basis to the position to which he/she is to be promoted but at his/her existing rate of basic compensation and then promoted at a later date to the higher salary class.

ARTICLE 21 **SELECTION OF TECHNICIANS**

Section A - General:

- (1) Whenever previous service in the Fire Fighting Division is a requirement for selection as technician, temporary technician and/or temporary additional technician, time spent in the Training Academy as defined under the Article of this Agreement entitled Training New Employees, shall constitute service in the Fire Fighting Division.
- (2) Whenever length of service in the Department and/or in a unit is a requirement or a factor to be considered in selecting technicians, temporary technicians, and/or temporary additional technicians, such service shall be computed up to, but not beyond, the date the position in question actually becomes vacant.
- (3) For purposes of this Article, days shall be interpreted to mean calendar days.
- (4) Any reference to any officer shall be interpreted to include acting officers as well.
- (5) Whenever this Article assigns responsibilities to Captains, persons acting as company commanders, or those acting in their stead, those terms shall be interpreted to refer to Captains or Acting Captains. In the event that a Captain or Acting Captain is absent during the period when any of the responsibilities assigned to him or her by this Article are to be performed, those responsibilities shall fall to the senior Lieutenant or senior Acting Lieutenant. In the unlikely event that the only officers assigned or detailed to a company during the relevant period are Sergeants and/or Acting Sergeants, the Battalion Chiefs concerned shall, in concert and with notification to the Deputy Fire Chiefs

concerned, determine whether the selection process shall proceed or be held in abeyance until an officer of higher rank than Sergeant or Acting Sergeant is assigned or detailed to the company; provided, however, that in no case shall the process be held in abeyance for more than thirty (30) days.

(6) Timely Filing of Vacancies:

- (a) A position as technician, temporary technician, and/or temporary additional technician is considered vacant whenever it is anticipated that the incumbent will not be performing the duties of a technician for a period of thirty (30) or more days, exclusive of annual leave, including but not limited to the following circumstances: promotion, transfer/assignment, resignation, retirement, extended detail, and sick leave anticipated to exceed thirty (30) days (i.e., where there has not been a determination by the Police and Fire Clinic that the individual will be able to return to the performance of his duties within thirty (30) days).
- (b) i) Except as provided in (ii) below, the selection of technicians, temporary technicians and temporary additional technicians shall be completed not later than sixty (60) days after the position becomes vacant.
 - ii) For positions in the Hazardous Materials Unit, Air Units and Foam Unit the requirement in (i) above shall not apply. However, the time limits set forth in Sections C(1) and C(2) for providing notification to members of actual or anticipated vacancies in these units, and for receiving applications, shall apply; and the position shall be filled immediately upon completion of the selection process described in Section G, Hazardous Materials Unit.
- (c) In order to assure the timely filing of vacancies, the selection process may proceed in the case of anticipated vacancies as well as actual vacancies.
- (d) All time limits set forth in this Article shall be strictly observed, unless extended by mutual consent of the Employer and the Union.
- (e) Compensation for members selected in accordance with this Article shall commence the first full pay period following the effective date of this action.

Section B - Selection of Aides to Chief Officers:

- (1) In general, those Chief Officers who have aides shall select their aides from among the eligible list of sergeants.
- (2) Factors to be considered shall be:
 - (a) Recommendations of officers with whom the member is presently serving;
 - (b) Length of service in the Department; and
 - (c) Any other job-related factors the Chief concerned deems appropriate.

Section C - Selection of Other Technicians, Temporary Technicians, and Temporary Additional Technicians:

(1) Notice of Vacancies:

- (a) Except as provided in subparts (b) and (c) of this paragraph, the Captain or officer acting as company commander shall, as soon as the definite need therefor is determined, but not later than ten (10) days after the position actually becomes vacant, post on the station/division bulletin board anticipated technician vacancies.
- (b) For technician vacancies in the Hazardous Materials Unit, Air Units, and Foam Unit, the Captain or officer acting as company commander shall, as soon as the definite need therefor is determined, but not later than ten (10) days after the position actually becomes vacant, notify the Assistant Fire Chief of Operations of the vacancy. Within seven (7) days after the Assistant Fire Chief is notified, but not later than fourteen (14) days after the position actually becomes vacant, the Assistant Fire Chief shall by Department memorandum notify all members of the Department of the vacancy.
- (c) If a list of eligible applicants to the position is in effect pursuant to paragraph 4(a)(iv) below at the time the vacancy arises, and if the vacancy is filled by offering the position to the eligibles on that list, the notice provisions of (a) and (b) above shall not apply.

(2) Applications:

- (a) For positions covered by paragraph 1(a) above, all eligible members shall, within fourteen (14) days after the notice of vacancy is posted, indicate in writing whether they wish to be considered for the vacancy, or whether they decline to be considered. This fourteen (14) day deadline shall be stated in the notice of vacancy.
- (b) For positions covered by paragraph 1(b) above, any member who wishes to be considered must apply in writing within twenty-one (21) days after the memorandum announcing the vacancy is issued. This deadline shall be stated in the memorandum announcing the vacancy.

(3) Eligibility:

- (a) General: To be eligible for consideration for any technician, temporary technician or temporary additional technician position, except as provided for in (3)(b), below, a member must have at least three (3) years service (continuous or cumulative) in the Fire Fighting Division.
- (b) Fire Prevention Division:
 - i) For positions in the Fire Prevention Division, a member must have at least five (5) years service (continuous or cumulative) in the Department and have been assigned to the Fire Prevention Division for at least one (1) year (continuously or cumulatively). Furthermore, the member must be assigned to the Fire Prevention Division at the time the vacancy occurs; provided, however, that the member need not be so assigned at the time the vacancy occurs if he/ she was so assigned within two (2) years immediately preceding the vacancy and was involuntarily transferred from the Division.

- ii) The requirements for technician positions in the Fire Investigation Unit, which require police powers, shall be outlined by Fire Department Memorandum.
- (c) Fireboat Operator: For the Fireboat Operator position, a member must, in addition to the provisions of 3(a), above, satisfy the following prerequisites:
 - i) Have been assigned to the fireboat for at least one (1) year (continuously or cumulatively);
 - ii) Be assigned to the fireboat at the time the vacancy occurs; provided, however, that the member need not be so assigned at the time the vacancy occurs if he/she was so assigned within two (2) years immediately preceding the vacancy and was involuntarily transferred from the fireboat;
 - iii) Possess a United States Coast Guard license as "Operator, Uninspected Passenger Vessel";
 - iv) Meet all other requirements for assignment at the Fireboat;
 - v) Have performed successfully as a fill-in operator.
- (d) Positions in an Engine Company, Truck Company or Rescue Squad:
For positions in an engine company, truck company, or rescue squad, a member must, in addition to the provisions of 3(a) above, be assigned to the unit in which the vacancy occurs at the time the vacancy occurs; provided, however, that the member need not be so assigned at the time the vacancy occurs if he/she was so assigned within two (2) years immediately preceding the vacancy and was involuntarily transferred from the unit.

(4) Selection Process:

- (a) Competitive Ratings:
 - i) All technicians shall be selected on the basis of scores on a competitive rating system, as provided in this paragraph 4.
 - ii) In each case, the selection panel or officer conducting the process shall select the eligible candidate with the highest rating, as determined pursuant to the procedures set forth herein, and shall submit a memorandum to the appropriate Deputy Fire Chief recommending that the member so selected be designated as technician, temporary technician or temporary additional technician. Upon receipt of the memorandum, the Deputy Fire Chief shall so designate the member who has been thus recommended.
 - iii) All eligibles shall have their ratings made available to them upon request. The completed rating shall not become part of the member's personnel file at the company, division or department level.
 - iv) The ratings established by the technician selection procedures shall be maintained for a period of six (6) months after the first vacancy is filled through those procedures. The applicants shall be listed by their final scores in descending numerical order, and the list may be used for other vacancies in the same unit or division which come open during the six (6) month period; provided, however,

that the responsible officer may, at his option, commence the selection process anew after giving notice of the vacancy in accordance with paragraph 1 above.

- v) Whenever the procedures set forth in this paragraph 4 involve the administration of any written and/or practical examination, a candidate must receive a grade of at least seventy percent (70%) on each such examination in order to remain eligible for the position. After such examinations have been graded, candidates shall be entitled to review their examination pages and grading sheets.

(b) Candidate's Unavailability:

- i) Any member who applies for a technician vacancy must, at the time he or she applies, indicate any periods of absence of annual leave that are anticipated to occur at any time during the selection process, so that planning adjustments, if possible, may be made. Any member who decides to absent himself or herself without the aforementioned notification shall be ineligible to compete for the position.
- ii) Any member who is on leave without pay, suspension, or absent without leave during the application period set forth in Section C, paragraph 2(a) or (b), or who is in such status on a date when any portion of the selection process is to be administered to applicants, shall be ineligible for the position in question; provided, however, that if a member is on leave without pay because his/her paid leave has been exhausted for medical reasons, he/she shall be eligible for the position if he/she has obtained the approval of his/her Clinic physician and the Clinic Liaison Officer, and has obtained certification that he/she will be placed in a full duty status prior to the date the vacancy is to be filled or the date the training portion of the selection process applicable to the position in question, if any, will begin, whichever date is earlier.
- iii) Any member who is in a sick leave, administrative leave-sick, or light duty status, will be eligible for the position only if he/she has obtained the approval of his/her Clinic physician and the Clinic Liaison Officer, and has obtained certification that he/she will be placed in a full duty status prior to the date the vacancy is to be filled or the date the training portion of the selection process applicable to the position in question, if any, will begin, whichever date is earlier.
- iv) Any member who is in the substance abuse program will be ineligible to participate in the selection process unless he or she is in a full duty status.

(c) Procedure When All Candidates Are Disqualified:

- i) If, at any point in the selection process, all candidates for a position became ineligible due to failure to attain the passing score required by paragraph 4(a)(v) above, or for any other reason, the responsible officer shall promptly post the vacancy again.
- ii) The sixty (60) day time limit for filling the vacancy, as provided in Section A, paragraph 6(b), shall begin to run anew when the vacancy is reposted.
- iii) If the vacancy in question was one for which only the members of a particular company were eligible, the responsible officer shall have the option to:

- (a) Re-open the process to all eligible company members; and/or
- (b) Open the eligibility to all companies in the house; and/or
- (c) Open the eligibility to the entire battalion; and/or
- (d) Request that the eligibility service requirement set forth in Section C, paragraph 3(a) of this Article be reduced to less than three (3) years, but not less than one (1) year in the Department.

Section D - Selection Criteria: Driver, Tillerman and Platform Operator:

The following criteria shall be applied in selecting among eligible candidates for positions as Driver, Tillerman, or Platform Operator.

(1) Examinations:

- (a) Candidates shall be examined on their knowledge of the box alarm district and their knowledge of hydraulics and operation and maintenance of apparatus and equipment, as provided herein, utilizing the requirements and guidelines set forth in Fire Department Bulletin 32 and 56.
- (b) Knowledge of Box Alarm District:
 - i) This examination shall be prepared and administered by the Captain and the Lieutenants of the unit concerned, or those acting in their stead, acting jointly, using guidelines established by the Training Academy. The examination shall make use of material in the unit's quarters that is available to all applicants. Any on-duty members and/or administering officers shall be excused from duty to participate in the examination. Two officers shall be present to administer the examination.
 - ii) In engine companies, the responsible officer shall administer a single joint examination for Wagon Driver and in truck companies the responsible officers shall administer a single joint examination for Truck Driver, Tillerman and Platform Operator positions.
- (c) Knowledge of Hydraulics and Operation and Maintenance of Apparatus and Equipment:
 - (i) This examination shall be administered by the Training Division at the Training Academy, using material and procedures developed by the Training Academy and the Apparatus Division.
 - (ii) Apparatus used for the examination shall be the apparatus to which the candidates will be assigned if selected. If such apparatus is unavailable, relevant apparatus with which all participants are familiar may be substituted.
 - (iii) The Training Academy shall administer a single joint examination for Truck Driver, Tillerman and Platform Operator positions, provided that the examination encompasses operations and maintenance for each position.

(2) Ratings:

All eligible candidates will be rated on a scale, with the points to be determined as follows:

- (a) Knowledge of Box Alarm District, as determined by the examination administered pursuant to part (1)(b) of this Section: 0-40 points.
- (b) Knowledge of Hydraulics and Operation and Maintenance of Apparatus and Equipment, as determined by the examination administered pursuant to part 1(c) of this Section: 0-35 points.
- (c) Seniority in the Department: 1/12 point for each month of service (continuous or cumulative) in the Department, up to a maximum of 15 points.
- (d) Seniority in the Unit: 1/12 point for each month of service (continuous or cumulative) in the Department, up to a maximum of 10 points. In applying this provision:
 - i) An applicant shall only be allowed credit for service in a unit if he/she is currently assigned to that unit, except that any member who has been involuntarily transferred from one unit to another shall be entitled, at his/her option, for a period of two (2) years after the transfer, to receive credit for service in either the unit to which he/she is currently assigned or the unit from which he/she was involuntarily transferred, but not both. The Captains of companies, or those acting in their stead, shall be responsible for keeping an ongoing list of members who have been involuntarily transferred from the unit within the past two (2) years; and
 - ii) The period of time served by members of the Fire Fighting Division in an assignment as a technician in the Emergency Medical Service shall be credited to seniority in the unit, either at the unit from which the member entered his/her assignment as a technician or at the unit to which the member is assigned immediately upon leaving the Emergency Medical Service, at the option of the member concerned. Once an election is made and the time is credited, it cannot be shifted toward credit in another unit.
 - iii) The period of time served by members, whose positions have been eliminated as a result of action undertaken by the District of Columbia Fire and Emergency Medical Services Department, shall be credited to seniority in the unit, either at the unit to which the member is re-assigned or at the former unit, should it be re-established, at the option of the member concerned. Once an election is made and the time is credited, it cannot be shifted toward credit in another unit.
- (e) Prior Satisfactory Service as a Technician, Temporary Technician and/or Temporary Additional Technician in any Unit: 5/12 point per month (continuous or cumulative), up to a maximum of 5 points.

Section E - Selection Criteria: Technicians in Fire Prevention Division:

All eligible candidates for technician positions in the Fire Prevention Division will be rated on a one-hundred (100)-point scale, with the points to be determined as follows:

- (1) Seniority in the Department: 1/12 point for each month of service (continuous or cumulative) in the Department up to a maximum of 15 points
- (2) Seniority in the Division: 1/6 point for each month of service (continuous or cumulative) in the Division up to a maximum of 15 points.

- (3) Prior Satisfactory Service as a Technician, Temporary Technician and/or Temporary Additional Technician in any Unit: 1/12 point per month (continuous or cumulative) up to a maximum of 5 points.
- (4) Completed courses in an Accredited Institution of Higher Learning Which are Job-Related or Necessary for a Job-Related Degree: 1/12 point per semester hour, up to a maximum of 15 points.
- (5) Division Examination: A written examination comprised of matter relevant to the position where the vacancy exists shall be prepared jointly by the Division head and the BFC/FPD, or those Supervisors/Officers above the rank of Sergeant as delegated by the Division Head. Grades on the examination shall count for 0-50 points on the overall rating scale.

Section F - Selection Criteria: Fireboat Operator:

All eligible candidates for the Fireboat Operator position will be rated on a one-hundred (100)-point scale, with the points to be determined as follows:

- (a) Seniority in the Department: 1/12 point for each month of service (continuous or cumulative) in the Department, up to a maximum of 5 points.
- (b) Seniority in the Unit: 1/12 point for each month of service (continuous or cumulative) in the Fireboat unit, up to a maximum of 10 points.
- (c) Prior Satisfactory Service as a Technician, Temporary Technician and/or Temporary Additional Technician in a unit: 5/12 point per month (continuous or cumulative) in the Department, up to a maximum of 5 points.
- (d) Written Practical Examinations: Written and practical examinations comprised of matter relevant to the position shall be prepared by the Captain and Lieutenants of the unit, or those acting in their stead. Grades on each of the two examinations shall count for 0-40 points on the overall rating scale.

Section G - Selection Criteria: Hazardous Materials Unit, Air Units, Foam Unit:

- (1) Rating Panels: The rating and ranking of applicants for technician positions in the Hazardous Materials Unit, Air Units and Foam Unit shall be by rating panels consisting of:
 - (a) the Captain(s) and the three lieutenants of the station to which the unit is assigned;
 - (b) a representative of the Training Division
 - (c) a representative designated by the Fire Chief;
 - (d) an observer designated by Local 36; and
 - (e) (for the Air Units only) a representative of the Apparatus Division

(2) Selection of Candidates:

- (a) Each eligible applicant shall be required to submit a written statement listing his/her qualifications relevant to the position, including length of service in the Department and in the relevant unit, job-related education, specific relevant experience, and any additional information which would lead to the selection of the best qualified person for the assignment.
- (b) No later than fourteen (14) days after the deadline for filing applications the panel shall review the applications and shall select candidates whom they deem most qualified from among the eligible applicants.
- (c) The panel shall select at least as many candidates as there are anticipated vacancies; and in the case of the Foam Unit or Air Units, the panel shall, whenever possible, select at least two (2) more candidates than the number of anticipated vacancies.
- (d) The selection shall be based upon the statement submitted by the applicant, previous experience in the Department, previous job-related education, and any other job-related criteria that the panel deems appropriate.
- (e) If the panel deems it necessary, the panel may interview eligibles to assist the panel in making its selections.

(3) Training and Final Selection:

- (a) Hazardous Materials Unit:
 - i) Not later than fourteen (14) days after the candidate(s) has/have been chosen by the selection panel, he/she/they shall be detailed to the Hazardous Materials Unit for a period of ninety (90) days for training, during which time he/she/they will be required to become proficient in the use of tools, appliances, equipment and other pertinent materials of the unit.
 - ii) Upon the completion of the 90-day training period, the candidates shall be rated on one-hundred (100)-point scale, with the points to be determined as follows:
 - (a.) Prior Satisfactory Service as a Technician, Temporary Technician and/or Temporary Additional Technician in Any Unit: 5/12 point per month (continuous or cumulative), up to a maximum of 5 points;
 - (b.) Written and Practical Examinations: written and practical examinations comprised of matter relevant to the position shall be prepared by the Captain and Lieutenants of the unit, or those acting in their stead. Grades on the written examination shall count for 0-45 points on the overall rating scale, and grades on the practical examination shall count for 0-50 points.
 - iii) The candidate(s) with the highest point rating(s) shall be assigned to the Hazardous Materials Unit. The candidate(s) so assigned shall then be required to complete successfully a minimum eighty (80) hour Hazardous Materials resident

program at the National Fire Academy or other nationally recognized Hazardous Materials Training Facility. If a candidate successfully completes the prescribed Hazardous Materials training course, he/she shall be designated as Technician Hazardous Materials Unit.

(b) Air Units and Foam Unit:

- i) After candidates have been chosen by the selection panel, they shall be detailed to the Training Academy for a prescribed course of instruction.
- ii) Once the training course has commenced, if, for any reason, a candidate is unable to complete the course, the process shall continue with the remaining candidates.
- iii) Candidates shall be notified in advance of appropriate study material to assist preparation for the course.
- iv) Upon the completion of the prescribed course, the candidates shall be rated on a one-hundred (100)-point scale, with the points to be determined as follows:
 - (a.) Seniority in the Department: 1/12 point for each month of service (continuous or cumulative), in the Department up to a maximum of 20 points in the case of the Air Units and 10 points in the case of the Foam Unit;
 - (b.) Satisfactory Service as Technician, Temporary Technician and/or Temporary Additional Technician in any Unit: 5/12 point per month (continuous or cumulative), up to a maximum of 5 points;
 - (c.) Written and Practical Examinations: Written and practical examinations comprised of matter relevant to the position shall be prepared by the Training Academy. Grades on the written examination shall count for 0-35 points on the overall rating scale in the case of the Air Units, and 0-40 points in the case of the Foam Unit. Grades on the practical examination shall count for 0-40 points in the case of the Air Units and 0-45 points in the case of the Foam Unit.

Section H - Temporary Technician/Temporary Additional Technician:

(1) Definitions:

- (a) **Temporary Technician:** An individual who fills the position of an incumbent Technician when the incumbent is transferred, reassigned or detailed to another salary class. He/she shall receive Technician compensation on a temporary basis. The Temporary Technician position will be converted to a permanent assignment in the event the incumbent does not return.
- (b) **Temporary Additional Technician:** An individual who performs the duties of Technician/Temporary Technician while the incumbent Technician/Temporary Technician is on sick leave, light duty, leave without pay, or suspension, or while a Technician/Temporary Technician position is otherwise temporarily vacant. He/she shall receive Technician compensation on a temporary basis. The Temporary Additional Technician position will be converted to a permanent assignment in the event the incumbent does not return.

(c) At no time can any Technician/Temporary Technician/Temporary Additional Technician hold more than one (1) technician position at one time except as provided for in this section.

(2) Eligibility:

- (a) Except as provided in subpart (b) of this section, to be eligible for assignment as a Temporary Technician or Temporary Additional Technician, a member shall be selected in accordance with the provisions for selection of Technicians set forth in this Article.
- (b) Temporary vacancies for Technicians in the Hazardous Materials Unit, Air Units, Foam Unit and the Fireboat shall be filled at the direction of the Assistant Chief of Operations; provided, however, that in filling such vacancies the Assistant Chief of Operations shall adhere, to the extent feasible, to the criteria and procedures for selection of Technicians in these units that are set forth in this Article.

(3) Position Cancelled:

- (a) Should the incumbent Technician be returned to his/her original position, the Temporary Technician/Temporary Additional Technician position will be canceled and the member assigned to his/her former position, and to the salary he/she would be receiving had he/she never left that position.
- (b) Whenever a Temporary Technician or Temporary Additional Technician position is canceled, the Captain of the company shall submit a Special Report to the Assistant Fire Chief, Operations.

(4) Position Rights:

- (a) Rights to Non-Temporary Assignments: If, while a member is serving as a Temporary Technician or Temporary Additional Technician, or within six (6) months after his/her position as Temporary Technician or Temporary Additional Technician has been canceled, non-temporary assignment becomes available in a Technician position for which the member has qualified, he/she shall have the option of moving into the non-temporary assignment. If more than one such member has qualified for the non-temporary assignment, the assignment will be offered to these members in turn, in order of the dates on which they first began to serve as a Temporary Technician or Temporary Additional Technician.
- (b) Rights to Temporary Assignments: If, within six (6) months after a Temporary Technician or Temporary Additional Technician position held by a member has been canceled, a Temporary Technician or Temporary Additional Technician assignment for which the member is qualified becomes available, he/she shall have the right to that assignment. If more than one such member has qualified for the assignment, the assignment will be offered to these members in turn in order of the dates on which they first began to serve as a Temporary Technician or Temporary Additional Technician.

(c) Technicians Moving to Temporary Positions:

- i) If a Technician begins to serve in another technician assignment in the same unit (for example, if Truck Driver begins to tiller), even on what is expected to be a temporary basis, the position to which he/she has previously been assigned shall be considered vacant once the Technician has worked in the new assignment for a period of more than ten (10) days (continuous or cumulative), and the vacant position shall be filled in accordance with the provision of this Article.
 - ii) After said ten (10) days, the Technician's new assignment (in the example above, Tillerman) shall be considered his/her permanent assignment.
- (5) When a Temporary Additional Technician is unable to perform his/her duties because of sick leave, light duty, leave without pay, or suspension, the position shall be filled by another Temporary Additional Technician. However, the incumbent Temporary Additional Technician shall relinquish all Technician compensation until his/her return to full duty. The Temporary Additional Technician performing the duties shall receive the compensation until the incumbent returns, at which time the incumbent shall resume the duties and receive the compensation.
- (6) (a) In all cases where a member is selected as a Technician or Temporary Additional Technician, the Captain of the unit concerned shall submit a Special Report to the Deputy Fire Chief giving all particulars. Whenever a Temporary Technician or Temporary Additional Technician position is canceled, the Captain of the company shall submit a Special Report to the Assistant Fire Chief, Operations.
- (b) Whenever a Temporary Technician or Temporary Additional Technician position is reassigned or canceled, the member will be officially notified by the Administrative Division.
- (7) In order to administer the foregoing provisions, each officer who is responsible for the selection of Technicians, Temporary Technicians and/or Temporary Additional Technicians shall maintain a file listing each member who has been assigned or detailed as a Temporary Technician and/or Temporary Additional Technician, which will include the individual's final ranking on the list of eligibles and the date(s) he/she was assigned or detailed to such position(s). The list shall also include the date that any position to which the member was assigned or detailed was canceled.

Section I - Special Rules Regarding Technicians:

(1) Reassignment of Technicians:

- (a) When in the judgment of the Captain of the unit concerned or those acting in his/her stead, the best interests of the Department would be served, the Captain may (with or without the consent of the members concerned) reassign drivers of wagons or trucks to vacancies in that position on other platoons. When this type of reassignment is undertaken, seniority of the members available for such reassignment shall be given due consideration.

- (b) A tillerman/platform operator may be moved to the position of truck driver or vice versa upon request and subject to the approval of the Captain when a vacancy or temporary vacancy exists.
- (c) When, in the opinion of the Battalion Fire Chiefs and Captains of the companies involved, acting jointly and with the approval of the Deputy Fire Chiefs, factors, such as length of service, physical condition or other sufficient reasons dictate that a technician should be removed from a very active unit to a less active unit, then the Battalion Chiefs shall recommend that a technician's vacancy in a less active unit be filled by such transfer and this may be ordered by the Fire Chief.
- (d) When a technician is reassigned or moved as provided in subparagraphs (1)(a), (b) or (c) of this Section, the resulting vacancy shall be filled in accordance with the procedures set forth in this article.
- (e) The provisions of subparagraphs (1) (a) — (d) above shall apply to temporary technicians and temporary additional technicians as well as to technicians.

(2) Removal of Technicians:

- (a) Removal of Technician. When the Captain of a company, or those acting in his/her stead, has evidence that job related deficiencies or misconduct, such as a serious accident(s) in which the member may have been charged, multiple minor accidents, failure to properly maintain the apparatus, inefficient performance while responding to or on the scene of an emergency, habitual violations of articles of the Order Book or traffic regulations or failure to maintain necessary certifications or licenses, dictate that a technician should be removed, the Captain shall recommend to the Battalion Fire Chief that the technician be removed from his/her position with loss of pay for the position.
 - i) Utilizing F.D. Form 140R, the Captain of the company concerned shall notify the affected member in writing, at least 30 days in advance, of his intention to remove him/her from his/her technician position.
 - ii) Thirty (30) days after the submission of the Form 140(R), the Captain shall prepare a detailed report outlining the reasons for the proposed removal and shall forward the report through the chain of command to the Fire Chief, who shall issue a final decision within 30 days of receiving the report; provided, however, that if, in the 30-day period following submission of the Form 140R, the technician demonstrates to the Captain sufficient improvement in his/her performance, the Captain shall not recommend removal and no further action shall be taken; provided further that, in the event that the Captain does not recommend removal because of improvement in the technician's performance, and the Captain deems the technician's performance to be unacceptable at any point during the succeeding one-year period, the Captain may then prepare a report proposing removal without submitting a new Form 140R, in which case

the 30-day periods specified in subsection (i) and in this subsection (ii) shall not apply.

- iii) All forms and reports shall be retained in the technician's personnel folder for one year from final action and shall be referred to if subsequent actions are initiated.
- iv) Any technician removed from his/her position shall be ineligible for a technician position of the same type for a period of one (1) year after the loss of that position.

Section J - Technicians Displaced:

- (1) Whenever any action is undertaken that results in the elimination of Technician positions in the Department, the following shall apply:
 - (a) Any person who has earned a position in accordance with this Article shall not lose any compensation due to the elimination of Technician positions within the Department and shall continue to be subject to assignment as a technician within the Department. Should the employee-technician refuse reassignment to another technician position within the Department, he/she will forfeit continuation of technician pay.
 - (b) The elimination of a technician position which results in a member being displaced from his/her company of assignment shall be treated as an involuntary transfer.
 - (c) The Department shall grant the assignment request of any employee, who must be displaced from his/her company or assignment, if a vacancy exists or is anticipated in the requested assignment.
 - (d) After an assignment has been made, any subsequent request for voluntary transfer out of the assignment shall include a statement that the member will forfeit his/her technician's compensation should the request be approved.
- (2) Re-establishment of previously eliminated positions: Unit re-established: Any technician displaced under (1) above will be offered an available technician position in the re-established unit. Any displaced technician who refuses to accept the position offered will forfeit any technician compensation which he/she currently receives as a result of the position elimination as outlined in (1) above.

Section K - Miscellaneous Provisions:

- (1) The Labor Relations Officer and Local 36 shall meet to attempt to resolve any problems concerning the administration of this Article as they occur.
- (2) If at any time the Department determines that the criteria for selection or removal of technicians, or of any category or categories of technicians, set forth in this Article should be changed, the Department shall have the right, subject to the procedures of Article 6 of this Agreement (Existing Rights and Benefits), to institute such a change; provided, however, that nothing in this section shall authorize the Department to institute changes in any provisions of this Article other than those establishing substantive criteria for selection or removal of technicians, unless the Union so agrees.

ARTICLE 22 **EMERGENCY MEDICAL SERVICES PROVISIONS**

Section A - Technician Status:

The parties agree that members serving in the Emergency Medical Service (EMS) under the provisions of this article shall be designated Technicians and shall be compensated in accordance with the article related to Technician's Pay in this agreement.

Section B – Selection:

The postings of Technicians in the EMS shall be filled by selection from among firefighters within the Fire Department. Final selection in every case shall be made by the Deputy Fire Chiefs of the Fire Fighting Division. Disapproval shall be in writing and shall state the reasons therefore.

(1) Voluntary Service

Members who have served a minimum of twelve (12) months in the Fire Fighting Division may volunteer for assignment with the EMS and as such shall be granted priority over those who are to be "drafted."

(2) Involuntary Service

Where the number of volunteers does not provide a sufficient complement for the effective functioning of the EMS, mandatory service may be required. In such cases, the following process shall be instituted as the system for determining who shall serve:

(a) To assist the needs of the Department in providing an effective complement, the Assistant Chief, Operations, shall maintain a list of those members of the Department who:

- (i) Have at least 12 months service;**
- (ii) Are not assigned as a Technician in any division, and**
- (iii) Have not yet served as a Technician within the EMS.**

(b) As the needs of the EMS dictate, the Deputy Fire Chiefs, Fire Fighting Division, may:

- (i) Commence with the junior member on said list and, proceeding in a chronological order, select an appropriate number of candidates.**
- (ii) Review the personnel file record of each member so selected.**
- (iii) Notify the appropriate company and battalion officials through the office of the Deputy Fire Chief, that the member concerned is being considered for assignment to the EMS, and invite their comments regarding any adverse effect that the proposed assignment would have on the company or battalion.**

(3) Assignment

(a) At the time a member who volunteers for service in the EMS is transferred from a company to the EMS, he/she may make a written request that, upon completion of

the assignment or minimum period of service as specified in paragraph 4, he/she will be returned to that company. This request is to receive consideration and every effort will be made to return the member to that company upon completion of the assignment or the minimum period of service, whichever occurs first.

- (b) Any member who is drafted for service in the EMS may request that, upon completion of the assignment or minimum period of service, he/she will be returned to his/her former company. This request is to receive consideration when a vacancy exists in that company following completion of the assignment or the minimum period of service, whichever occurs first.
- (c) Any member, whether volunteer or drafted, shall be considered in accordance with the “Selection of Technicians” Article of this agreement for filling technician vacancies, during the period of his/her service in the EMS, for any technician vacancy that may occur in the company to which the member was assigned immediately prior to his/her service in the EMS or for which other members of that company are eligible. For the Fire Fighting Division, the member shall accrue points for seniority in the unit as if he/she were still a member of the unit from which he/she left for an assignment in the EMS. If he/she is selected to fill the technician position, the provisions regarding minimum service in the EMS will be waived.
- (d) Any member who possess specialized training shall be given the opportunity to maintain his/her certification(s) to the extent possible.

(4) Termination

The normal minimum period of service in the EMS shall be 12 months. Requests for transfers away from EMS prior to normal periods will not receive consideration unless some exceptional factor exists. Except in extraordinary circumstances, all such cases requests shall be submitted 60 days prior to the desired date of release.

Section C - Dual Role/Cross Training:

Upon approval of the Fire Chief or his designee and pursuant to Department rules, any nationally certified paramedic who is a member of the District of Columbia Fire and Emergency Medical Services Department may participate in a Dual Role/Cross Training Program as a Firefighter/Paramedic provided that he/she completes the full training course of instruction and probationary skill requirements that are required of new hires in the Fire Service. Should the Department offer Advance Life Support (ALS) training, members of the bargaining unit shall be offered the opportunity to participate in such training.

ARTICLE 23

TRAVEL

Section A - Relief on Fireground:

When an employee is required by the Employer to report to or from a fireground location in order to relieve or be relieved respectively, the employee will be provided with transportation by the Employer, unless conditions preclude such action.

Section B - Temporary Assignment:

When an employee is directed by the Employer to work temporarily at other than the station that he/she is assigned for that tour, and he/she does not have his/her own transportation and public transportation is unavailable, he/she shall be furnished transportation by the Employer.

ARTICLE 24

LIABILITY

Section A:

The Employer shall provide legal representation through the Office of the Corporation Counsel to any employee who is named as a defendant in a civil action arising out of acts committed by the employee within the scope of his/her employment; provided, however, that such representation is requested by the employee no more than five (5) calendar days after the service of process and that such representation would not pose a conflict of interest or potential conflict of interest.

Section B:

An employee (who has been sued in his/her personal capacity for duty related activity) seeking representation shall contact the General Counsel of the Fire and Emergency Medical Services Department and provide all documentation of the suit or action as soon as the employee has been made aware of the suit or action. The employee will be required to complete a form(s) provided by the General Counsel and may be required to complete additional forms provided by the Office of the Corporation Counsel.

Section C:

If the employee has not been contacted by an attorney from the Office of the Corporation Counsel ten (10) calendar days prior to a deadline for an initial pleading response, the employee may contact the General Counsel of the Fire and Emergency Medical Services Department. The General Counsel shall provide the employee with a response within two (2) business days of that contact, advising the employee as to the status of the matter and the next appropriate action.

Section D:

The decision of the Corporation Counsel on whether to represent an employee shall be final. Should the Corporation Counsel decline to represent the employee because of a conflict of interest or potential conflict, the employee may be represented by any private attorney of his/her choice. The employer will reimburse the employee for reasonable attorney's fees.

Section E:

Neither representation nor attorney fee reimbursement will generally be provided where the employee has been found to have engaged in willful misconduct that has resulted in disciplinary action against him/her as a result of his/her conduct with respect to the matter in question.

ARTICLE 25
SAFETY

Section A - Scope:

The Employer and the Union mutually recognize the need for protection of employees from assault and intimidation by third parties and will work cooperatively to attain this protection.

Section B - Employer Responsibility:

- (1) The Employer shall use best efforts to furnish, clean, and maintain two (2) sets of the best available personal protective equipment (“PPE”) necessary for employees to carry out their assigned duties, within reasonable cost limitations. A set of PPE shall include the following: helmet, hood, gloves, coat, pants, boots, suspenders, and face piece. The PPE shall be approved by nationally recognized testing authorities, where applicable. Employees shall have the right to furnish their own PPE, so long as such items are compliant with the same standards required of Department-issued PPE. All non-Department issued PPE items will be inspected under the same terms and conditions applied to PPE items issued by the Department. Unserviceable Department-issued PPE and work uniforms shall be replaced by the Employer. To the extent practicable the Department shall implement the recommendation of the joint labor-management uniforms committee concerning complying with NFPA uniform standards. Upon hire, the Department shall also provide at least three (3) sets of NFPA compliant station wear (work uniforms).
- (2) The employer shall develop and administer a comprehensive certified driver’s training program for the purpose of ensuring the safe operation of all Fire Department apparatus and EMS vehicles. Instructors shall be independently certified in providing such training for the various apparatus types.

Section C - Safety Committee:

There shall be a joint labor-management Safety Committee which shall meet monthly or as mutually agreed upon to facilitate compliance with this Article. The Employer’s Risk Manager shall be a member of the Safety Committee. Among its functions, the Committee shall prepare and make available to all bargaining unit personnel a form which can be used by individuals to provide written notice to the Department that they have not been issued certain necessary item(s) of PPE or work uniforms or that the items they have are in need of repair or replacement. A copy of any such written notice to the Fire Department shall be sent to the Union.

Section D - Union Representation:

It is agreed that the Union may appoint a voting participant (if applicable to that committee) to the Apparatus Selection Committee and Uniform Committee for the purpose of representing the firefighters' safety concerns.

Section E - Joint Committees/Initiatives:

- (1) The Department will continue the installation, maintenance and upkeep of diesel exhaust systems in each facility where diesel-powered equipment is housed indoors.
- (2) The Department and the Union agree to establish a joint committee to research arrangements to contract for the provision and the regular maintenance, cleaning, and replacement of NFPA compliant stationwear (work uniforms), and shall issue a report making recommendations to the Department regarding the same.

ARTICLE 26
FOOD AT ALARMS OR SPECIAL ASSIGNMENTS

It is agreed that when unusual conditions of service or weather make it necessary, or when an employee is required to work significantly beyond his/her regular scheduled tour at alarms or special assignments, the Department shall provide appropriate food, beverages and/or meals to employees.

ARTICLE 27
PARKING

Section A:

It is agreed that the Employer will attempt to make parking available, for those unit members who are in a duty status, without charge.

Section B:

Those arrangements are intended solely as a convenience for employees. The Employer assumes no liability which might arise as a consequence of said parking facilities.

Section C:

A joint labor/management committee shall consider any parking or security problems that may exist at any Department facility.

ARTICLE 28
UNIFORMS

An employee having a uniform in his/her company quarters will be considered as meeting the requirements of having a uniform available as required in Article XXI, Section 4, of the Fire Department Order Book.

ARTICLE 29
IDENTIFICATION DEVICES

The official IAFF Identification Pin indicating Union membership may be worn on the uniform of bargaining unit employees.

ARTICLE 30 **HOSTILE SITUATIONS/CIVIL DISTURBANCE**

Section A:

During periods of civil disturbance and/or situations involving imminent danger of physical harm to firefighters, the Employer will act to ensure that the Fire Department is notified immediately of all conditions that would have an effect on Fire Department operations.

Section B:

In the event that Fire Department Headquarters is notified that Police Units are withheld or withdrawn from an area due to civil disturbance or other hostile situation as described above, no Fire Department units shall enter the area until it has been determined, by a Chief Officer of the Fire Department, that such entry should be made.

ARTICLE 31 **GEAR LOCKERS**

At Fire Stations where gear lockers are not available, the members shall not be held responsible for the theft of protective clothing and equipment which they have properly stored. If gear lockers are available, members should utilize the lockers to protect their equipment.

ARTICLE 32 **DISCIPLINARY PROCEDURES**

Section A - Governing Rules and Regulations:

Disciplinary procedures are governed by applicable provisions of Chapter 16 of the District Personnel Manual, and the Department's Rules and Regulations and Order Book, except as amended/abridged by this Article. Disciplinary procedures are also governed by applicable sections of the District of Columbia Official Code, of which such sections shall supercede the provisions of this Article.

Section B - Notice of Charge(s):

- (1) An employee shall be notified of the alleged infraction or complaint filed against him/her in writing within seventy-five (75) days after the alleged infraction or complaint or such time as the employer becomes aware of the alleged infraction or complaint. This notification shall be referred to as the "Initial Written Notification."
- (2) Where the alleged infraction or complaint is based on a criminal charge, the 75-day period shall run from the date such charge is issued. In such a case, all other time limits under this Article shall be tolled until disposition of the criminal charge.
- (3) Within 60 days of the receipt of the Initial Written Notification, the employee shall be notified of the type of Departmental action which will be pursued. This notification shall be referred to as the "Proposed Action." The Proposed Action shall provide for the range of discipline being considered by stating the type of Conference or Trial Board available to the employee.

(4) An employee may elect to challenge the Proposed Action by notifying the Fire Chief, in writing within ten (10) days of the Department's issuance of the Proposed Action. This challenge shall initiate a Battalion or Deputy Chief's Conference or a Trial Board, as applicable to the proposed discipline.

(5) If the case is to be heard by a Trial Board, the hearing shall begin within 180 days of the employee's receipt of Initial Written Notification. When the employee requests a postponement or continuance of a scheduled hearing, the 180-day time limit shall automatically be extended by the length of the postponement or continuance granted by the Department.

Section C - Penalties:

All penalties involving loss of time or pay shall be expressed in terms of the number of duty hours involved.

Section D - Battalion Chief's Conference:

(1) Challenges of Proposed Actions in which the maximum penalty that may be imposed does not exceed a 72 hour suspension shall be submitted to a Battalion Chief's Conference. Upon a finding of guilt, the minimum penalty to be imposed for an infraction shall be an Official Reprimand. Such cases shall include, but shall not be limited to charges of the following infractions:

Late for duty up to 3 times;
Discourteous to other members or to citizens;
Uniform infractions;
AWOL not exceeding 12 hours;
Missing a run;
At fault for a minor accident;
Other minor violations of duties and responsibilities, e.g., missing a clinic appointment or training class.

(2) The procedures to be followed in such cases are as follows:

- (a) Nontraditional penalties including transfer, reassignment and change of days off are specifically permitted under this Section if the affected employee agrees to the penalty.
- (b) The affected employee may be represented in the conference, if he/she wishes to be so represented and the representative so agrees to represent the employee.
- (c) Any statements made in the conference (including but not limited to any proposed penalty, settlement or resolution of the matter) shall not be used as a precedent in that case or any other.

- (d) The affected employee may appeal the Battalion Chief's decision to the Assistant Fire Chief who may approve the action, reduce the penalty or dismiss the case.
- (e) The affected employee may appeal the Assistant Fire Chief's decision to the Fire Chief, who may adopt either the Battalion Chief or Assistant Fire Chief's action, reduce the penalty issued by the Assistant Chief or dismiss the case.

Section E - Deputy Chief's Conference:

- (1) Challenges of Proposed Actions in which the maximum penalty that may be imposed is greater than a 72 hour suspension but less than a 120 hour suspension shall be submitted to a Deputy Chief's Conference. Upon a finding of guilt, the minimum penalty to be imposed for an infraction shall be 24 hours. Such cases shall include, but shall not be limited to charges of the following infractions (except where the alleged violation is of such severity that the Department is proposing termination, demotion, or a suspension of 120 hours or greater, in which case a Trial Board shall be convened):

Late for duty more than 3 times;
Conduct unbecoming an officer;
AWOL for more than 12 hours;
At fault for a major accident;
Insubordination;
Other serious violations of duties and responsibilities;
More than 3 infractions of the same offense within a 3-year period.

- (2) The procedures to be followed in such cases are as follows:

- (a) Nontraditional penalties including transfer, reassignment and change of days off are specifically permitted under this Section.
- (b) The affected employee may be represented in the conference, if he/she wishes to be so represented and the representative so agrees to represent the employee.
- (c) Any statements made in the conference (including but not limited to any proposed penalty, settlement or resolution of the matter) shall not be used as a precedent in future cases.
- (d) The affected employee may appeal the Deputy Chief's decision to a Trial Board constituted in accordance with Section F of this Article, which may recommend approval of the Deputy Chief's decision, modification (but not an increase) of the penalty or dismissal of the case. The Trial Board shall not be required to conduct a hearing.

Section F - Trial Board:

All cases in which an employee is charged with an infraction for which the penalty that may be imposed is termination, demotion or a 120-hour suspension or greater shall be submitted to a

Trial Board. The previously established procedures applicable to Trial Boards shall continue to be followed, with the following amendments:

- (1) The Trial Board shall be appointed by the Fire Chief and shall consist of two (2) Captains and two (2) Battalion Fire Chiefs.
- (2) Except as otherwise provided in this Section, the Fire Chief shall have complete discretion in selecting the members of the Trial Board and in determining the length of time that appointees serve on Trial Boards, subject to the right of an affected employee to challenge any member of the Trial Board pursuant to Article VII, Section 12 of the Department Rules and Regulations. A member must show cause to disqualify a Trial Board member from serving; no challenge shall automatically result in disqualification of the Trial Board member.
- (3) Captains appointed to the Trial Board shall be selected and shall rotate in accordance with the previously established procedures, except that no Captain who is a member of the Executive Board of Local 36 shall serve on a Trial Board.
- (4) Nontraditional penalties including transfer, reassignment and change of days off are specifically permitted under this Section.
- (5) When a case is brought before the Trial Board, the Trial Board shall make a determination as to the guilt or innocence of the employee(s) and recommend an appropriate penalty. Where the Trial Board's determination, as to either guilt or innocence or as to the appropriate penalty, is not unanimous, the majority decision must note the dissenting opinion and the basis for it. There will be no identification of the dissenting Trial Board member. The Trial Board's recommendation is then sent to the Fire Chief for review. Upon receipt of the Trial Board's recommendation, the Fire Chief shall either adopt the penalty (if any) recommended by the Trial Board, modify (but not increase) the penalty, or dismiss the case.
- (6) The Parties recognize that the case may arise when the Trial Board cannot reach a consensus or majority decision and is unable to render a decision. In such case, the Trial Board will notify the Assistant Fire Chief (AFC) (non-proposing), who will intervene to facilitate and after deliberation with the AFC, the Trial Board shall render a decision, adopting the AFC's recommendation if a dispute continues to exist. Upon receipt of the Board's recommendation, the Fire Chief shall either adopt the penalty (if any) recommended by the Board, modify (but not increase) the penalty, or dismiss the case. In cases of termination so resolved through the intervention of the AFC, upon a final decision by the Fire Chief, if the individual or the Union is dissatisfied with such decision, it may elect to pursue appeal before either the Office of Employee Appeals or to submit the dispute to arbitration by notifying the Fire Chief pursuant to the grievance and arbitration provisions in this Agreement. In such arbitration, the Department shall be required to establish that the termination was for cause.

(7) Except as provided in subsection (6) above, the affected employee may appeal the Fire Chief's decision only to the District of Columbia Office of Employee Appeals, as permissible and in accordance with that Office's Rules and Regulations. Appeals of decisions premised upon Trial Board recommendations shall be based solely on the record established in the Trial Board hearing. The filing of an appeal shall not stay the implementation of the Fire Chief's decision.

Section G - Fire Chief's Authority

(1) In case in which the administrative charges against the employee involve any criminal conviction (including a plea of nolo contendere, deferment of a charge, a placement on probation before judgment, or a placement of the case upon the set docket, or a finding of not guilty by reason of insanity) of one of the following felony offenses (or their equivalent in another state or territory), a Trial Board need not be held. The Fire Chief will assess the penalty, and the only right of appeal shall be to the Office of Employee Appeals:

- a. Murder, attempted murder, manslaughter, or arson;
- b. Assault, battery, assault and battery, assault with a dangerous weapon, mayhem, or threats to do bodily harm;
- c. Burglary;
- d. Robbery;
- e. Kidnapping;
- f. Theft, fraud, forgery, extortion, or blackmail;
- g. Illegal use or possession of a firearm;
- h. Sexual offenses, including indecent exposure; promoting, procuring, compelling, soliciting, or engaging in prostitution; corrupting minors (sexual relations with children); molesting; voyeurism; committing sex acts in public; incest; rape, sexual assault; sexual battery; or sexual abuse;
- i. Child abuse or cruelty to children;
- j. Unlawful distribution of, or possession with intent to distribute, a controlled substance.

(2) A criminal conviction shall estop the convicted party from denying the facts underlying the conviction.

ARTICLE 33 **SICK LEAVE ADMINISTRATION**

Section A:

(1) Employees shall be charged sick leave for time spent while on duty seeking diagnosis and/or treatment for non-duty related illnesses or injuries.

(2) Employees shall not be charged any type of sick or personal leave for reporting to the Police and Fire Clinic or an urgent care facility when required by the Department to report.

Section B - EKG and Stress Test Leave Program

Members placed on sick leave by the Police and Fire Clinic following administration of an EKG or stress test shall promptly schedule and report to an appointment with a certified cardiologist. After the member has been examined by a cardiologist, the member shall promptly return to the

Clinic and provide to the Clinic the medical documentation and report of the cardiologist. If the Clinic determines, based on the cardiologist's examination of the member and the medical documentation provided by the cardiologist, that the original decision by the Clinic was in error, or was the result of erroneous information, and the member is returned to full duty at his/her return visit to the Clinic, all sick leave hours used by the member pending his/her return to work shall be restored. The Clinic's determination shall be promptly issued.

ARTICLE 34 **EDUCATION AND TRAINING**

Section A - Policy:

Education, training and development of employees with the Department are matters of great importance. Within the budgetary and staffing discretion of the Employer, the Employer will attempt to provide job related development opportunities for employees and notify the employees and the Union concerning policies and procedures designed to accomplish this purpose and the mission of the Department.

Section B:

The Employer will use its best efforts to continue to offer a subsidized program of higher education in fire EMS, and emergency management related subject areas for employees.

Section C - Administrative Leave:

The Employer has the prerogative to grant administrative leave to send members to certain schools or courses which are of benefit to the Department.

Section D – Recertification/Continuing Education:

It is to the parties' mutual benefit that employees maintain any and all qualifications required to perform their duties, many of which require certification, refresher and/or continuing education, such as Emergency Medical Technician, Paramedic, Hazardous Materials, Confined Space Entry, High Angle Rescue, and other job related courses.. In order to maintain qualified personnel, the employer agrees that all such original training, recertification and/or continuing education shall be accomplished while the employee is on duty, where practicable. An employee shall make every effort to notify the Department ninety (90) days in advance of the expiration of his/her required certification. If an employee's required certification is to expire within ninety (90) days, and the Department is unable to provide the required training, and the employee is willing to obtain his/her certification on off-duty time, he/she shall apply in advance of participating in off-duty training for permission, in writing, to (1) obtain the certification on off-duty time and (2) receive approval for use of a designated training source. If approved in writing, the employee shall receive overtime pay for all off-duty time actually spent in the training activity as well as the cost for the course, if any. The individual participating in such training must provide proof of successful completion of the course with a passing grade, attendance records and a bill or receipt for the cost of the course. Any individual who does not successfully complete the course with a passing grade who has not completed all the required work shall reimburse the Department for the cost of the course.

Section E – Training Following Promotion to Supervisory Position

The Department shall use its best efforts to initiate a member's training within three (3) months before, but no later than nine (9) months after, the member's promotion date.

ARTICLE 35
TRAINING NEW EMPLOYEES

The Employer and the Union agree that all newly appointed members shall, prior to assignment to regular duty with the Fire Fighting Division, be detailed to the Training Division for the purpose of undergoing a minimum of a five (5) day indoctrination course in the rudiments of firefighting.

ARTICLE 36
USE OF OFFICIAL FACILITIES

Section A - Bulletin Boards:

Bulletin Boards to be furnished by the Union will be permitted in each firehouse, division, and section for the exclusive use of Local 36. The Property Officer in each of the above locations shall select a prominent place for the Bulletin Board. This Bulletin Board shall only be used for the posting of such material that is directly related to the activities or interests of the Union.

Section B - Official Space:

The Union may be granted permission to use official space for meetings.

Section C - Internal Mail:

The Union may distribute literature through the Official Fire Department Mail Service. The mail delivery person shall ensure that Local 36 is on his/her daily route.

Section D - Vocalarm Messages:

The Union may be granted permission to have unofficial messages transmitted over the Fire Department Vocalarm system with approval of one of the following: Fire Chief, Assistant Fire Chief or Deputy Fire Chiefs.

ARTICLE 37
NEW EMPLOYEES

The Employer will make time available to the Union during the initial training of new employees. Such time is not to exceed one (1) hour for the purpose of explaining the Union organization. The material the Union distributes will be subject to review by the Employer.

ARTICLE 38
WATCH DETAIL

It is agreed that upon completion of the installation of the CAD system, the communications division will alert and turn out companies to alarms. Further, as of the date of the announced

implementation of the CAD system, employees will not normally be required to stand watch at the watch desk. For the purposes of this article an officer or employee assigned to stand watch shall meet the requirement of the Department's orders on standing watches if he/she is on the same floor level of quarters as the watch desk and is able to hear the tone alert system and the ringing of the official phone, is able to greet the public or representatives of the Government and is able to turn out the company (s) on an alarm if need be.

ARTICLE 39 **DISTRIBUTION OF CONTRACT**

Section A:

Local 36 shall print and make available to the Department enough copies of the Agreement so that the Department can distribute one (1) copy to each individual presently in the bargaining unit and, as well, to each new hire during the term of this Agreement.

Section B:

The Department shall issue the approved contract as F.D. Bulletin No. 1 and shall further issue any modifications/addendums thereto via General Order to the Department for inclusion in the Bulletin.

ARTICLE 40 **HEALTH**

Section A:

Each member of the Department shall be given an annual physical examination in order to keep abreast of his/her physical condition. This physical examination is to include urinalysis, blood tests, and any other appropriate tests to determine if any symptoms of contagious or infectious disease or drug abuse are present.

Section B:

Bargaining unit employees in the performance of their regular duties may be exposed to contagious or infectious diseases or hazardous materials. To deal effectively with said potential risks:

- (1) Any time that the Employer acquires any information indicating that one or more firefighters have been exposed to a contagious or infectious disease or hazardous material in the performance of his/her duties, the Employer promptly shall notify the employee of that fact and shall furnish to the employee whatever information the Employer possesses with respect to all relevant circumstances surrounding the incident. Additionally, any member exposed to a contagious or infectious disease or hazardous material shall be provided, by the Department, with all information available regarding the health effects of such exposure and, where appropriate, the Department shall contact appropriate professionals and /or specialists who may be able to provide the employee with information regarding health effects of an exposure.
- (2) The Employer shall provide medical consultation, advice and treatment to any firefighter exposed to a contagious or infectious disease or hazardous material in the performance of

his/her duties. An employee who, in the performance of his/her duties, has reason to believe he/she has been exposed to a contagious or infectious disease or hazardous material, shall, at his/her request, be provided appropriate medical testing and treatment.

- (3) Protective clothing and equipment provision shall be addressed by the Joint Safety Committee.
- (4) The Fire Department shall consult with the Union prior to the issuance of rules, regulations, orders or guidelines for dealing with infectious or contagious diseases and hazardous materials.

Section C - Drug Testing:

- (1) The Department's drug testing procedure is currently specified in Bulletin 5 (2007), except that with respect to providing members with an opportunity for rehabilitation following a positive test, the provisions of Bulletin 1-A, dated July 1989, shall govern.
- (2) The Department shall determine the component of its workforce that shall be required to participate in a mandatory drug testing program. The parties recognize that any new or modified procedures shall be the subject of mutual agreement between the parties.
- (3) It is jointly understood that involvement of any on-duty member of the Department in an accident while operating any Department vehicle shall provide sufficient cause for immediate drug screening in accordance with Federal Department of Transportation guidelines.

ARTICLE 41
ACTING PAY

Section A:

The parties agree that the Department should make every effort to fill all vacancies in a timely manner so that employees need not be called upon to act in a higher ranked position. The parties also agree in principle that a firefighter who acts in a higher ranked position ("Actor") should be compensated for the additional responsibility, as defined further by this Article.

Section B:

- (1) An employee who is detailed to and has completed service in a higher ranked position (Sergeant, Lieutenant, Captain and EMS Battalion Supervisor) for more than sixty (60) consecutive calendar days shall receive the pay for the higher rank beginning the first full pay period performed in the higher-ranked position and continuing until the detail is terminated. The Employer shall not terminate a detail which otherwise would have continued for sixty (60) or more calendar days in order to avoid the obligation of paying the higher-ranked pay to the acting employee.
- (2) The Department shall maintain a list of employees qualified to act in higher ranked positions. Where there is a current promotion roster for a position, whenever practicable, employees on that list will be utilized as Actors before other employees are so utilized.

Qualified employees shall be utilized as Actors to meet the needs of the Department on a rotating basis within their respective platoons.

ARTICLE 42 **WAGES**

Section A - Fiscal Year 2011

There shall be no increase in the Fire Service Salary Schedule.

Section B - Fiscal Year 2012

Effective the first day of the first full pay period commencing on or after April 1, 2012, the Fire Service Salary Schedule for employees who are or were at that time actively employed shall be increased 3.0% in accordance with past methods of increasing salary schedules.

Section C - Fiscal Year 2013

Effective the first day of the first full pay period commencing on or after April 1, 2013, the Fire Service Salary Schedule for employees who are or were at that time actively employed shall be increased 3.5% in accordance with past methods of increasing salary schedules.

Section D - Fiscal Year 2014

Effective the first day of the first full pay period commencing on or after April 1, 2014, the Fire Service Salary Schedule for employees who are at that time actively employed shall be increased 3.5 % in accordance with past methods of increasing salary schedules.

ARTICLE 43 **TECHNICIAN'S PAY/PARAMEDIC PAY**

- (1) Any position currently designated by the Department as a Technician or Firefighter/Paramedic shall be incorporated as a position with a regular rate of pay on the Fire Service Salary Schedule at the current rate of pay, subject to all wage increases provided through this Agreement. As such, all "differentials" or "other" forms of pay for a Technician or Firefighter/Paramedic, which existed under past agreements, shall be included in the base pay and all "differentials" or "other" forms of pay which are paid solely due to these designations, other than base pay, shall be abolished.
- (2) The Department shall develop appropriate position descriptions and position titles for the new technician class commensurate with existing classification rules and procedures and consistent with the provisions of this Agreement. Salary schedules for these positions shall be developed by agreement of the parties consistent with the terms of this Article. Only those employees designated by the Department as and actually serving as Technician, Arson Investigator or Firefighter/Paramedic shall be eligible to be paid at that rate on the Fire Service Salary Schedule.
- (3) (a) Technicians shall receive a premium equal to 5% of Class 1, Step 1, over the pay to which they are otherwise entitled by reason of their Class and Step;

- (b) Effective April 1, 2014, Firefighter/Paramedics (i.e., members who have achieved a level of NREMT-I or above) shall receive a premium equal to 15% of Class 1, Step 1, over the pay to which they are otherwise entitled by reason of their Class and Step.
- (c) Arson Investigators shall receive a premium equal to 10% of Class 1, Step 1, over the pay to which they are otherwise entitled by reason of their Class and Step.
- (4) All additional compensation due under this Article shall be considered basic pay for the purposes of retirement, life insurance, and other forms of premium pay. All additional compensation due under this Article shall be paid in the same manner as basic pay and shall be subject to the same withholding and deductions as basic pay.

ARTICLE 44 **HOURS OF WORK/ SCHEDULE/LEAVE**

Section A - General:

Nothing in this Article shall be construed to prevent the Employer from taking any action that constitutes management's right under D.C. Official Code (2001 ed.) § 1-617.08, provided, however, that in taking such action the Employer shall comply with the requirements of Article 6 of this Agreement.

Section B - Tour of Duty:¹

- (1) The basic workweek for members working in the Fire Fighting Division shall be 42 hours averaged over a 4-week period.
- (2) The work schedule for members working in the Fire Fighting Division shall be 24 hours on duty and 72 hours off duty.

Section C - Sick Leave:

Bargaining unit employees in the Fire Fighting Division shall earn sick leave at the rate of 4.5 hours per bi-weekly pay period.

¹ Per Arbitrator Jaffe's award in PERB Case No. 13-I-01, the provisions of Article 44, Section B, are subject to the following "asterisk" conditions:

"Should the PERB's decision in Local 36, IAFF v. District of Columbia Department of Fire and Emergency Medical Services, PERB Case No. 13-N-04, Opinion No. 1445 (November 26, 2013), remain in force after all rights of appeal are exhausted or should the parties agree that Article 45, Section B, is not negotiable, then Section B of Article 45 will be deemed null and void. The remainder of Article 45 will remain in effect absent joint agreement to modify or eliminate some or all of those provisions. Should, after all rights of appeal are exhausted or by agreement of the Parties, the Union's LBFO as to Article 45, Section B, be determined to be negotiable, then the adoption of the Union's LBFO as to Article 45 will become final in the sense that it will no longer be conditional. This ruling is without prejudice to any rights which each Party might have or any positions which the Parties might take or have taken with regard to the negotiability of any impact and implementation bargaining proposals that may be made relative to Article 45 in the event that the current 24/72 schedule required by Article 45, Section B, is changed." [Award, p. 111]

Section D - Annual Leave:

- (1) Bargaining unit employees in the Fire Fighting Division with less than three (3) years of service shall earn annual leave at the rate of 4.5 hours per bi-weekly pay period;
- (2) Bargaining unit employees in the Fire Fighting Division with three (3) years but less than fifteen (15) years of service shall earn annual leave at the rate of 7.0 hours per bi-weekly pay period.
- (3) Bargaining unit employees in the Fire Fighting Division with fifteen (15) or more years of service shall earn annual leave at the rate of 9.0 hours per bi-weekly pay period.

Section E - Leave Balances Upon Transfer Or Reassignment:

- (1) A member who is transferred or reassigned from a 40-hour-per-week position to a 42-hour-per week position shall have his/her accrued sick leave balance increased by taking the number of hours times 1.125 to reflect the higher earning rate.
- (2) A member who is transferred or reassigned from a 42-hour-per-week position to a 40-hour-per-week position shall have his/her accrued sick leave balance decreased by taking the number of hours multiplied by .889, or the number of hours divided by 1.125 to reflect the lower earning rate.
- (3) A member who is transferred or reassigned from a 40-hour-per-week position to a 42-hour-per-week position shall have his/her accrued annual leave balance increased by taking the number of hours times 1.125 to reflect the higher earning rate.
- (4) A member who is transferred or reassigned from a 42-hour-per-week position to a 40-hour-per-week position shall have his/her accrued annual leave balance decreased by taking the number of hours multiplied by .889, or the number of hours divided by 1.125 to reflect the lower earning rate.

Section F: Maximum Annual Leave Carried Forward:

The maximum number of annual leave hours that can be carried forward into any leave year shall be 264 hours for bargaining unit members of the Fire Fighting Division.

ARTICLE 45
SERVICE LONGEVITY**Section A – Service Longevity Payment:**

Each employee in active service who has completed, or completes, fifteen (15) years of total service, twenty (20) years of total service, twenty-five (25) years of total service, and thirty (30) years of total service under the D.C. Police and/or Fire Service Salary Schedules shall receive, per annum, a service longevity payment paid at a rate of five percent (5%), ten percent (10%), fifteen percent (15%), and twenty percent (20%), respectively, of his/her annual rate of pay as prescribed in the Fire Service Salary Schedule. An employee is entitled to receive such service longevity payment only as long as he/she is in active service. This service longevity payment shall be considered basic pay for the purposes of retirement, life insurance, and other forms of premium pay. The service longevity payment shall be paid in the same manner as basic pay and shall be subject to the same withholding and deductions as basic pay.

Section B – General:

- (1) The payments made pursuant to Section A of this Article shall satisfy the District of Columbia's obligation to tender "service longevity" payments pursuant to D.C. Official Code §5-544.01 (2001 Ed.).
- (2) "Continuous service" shall mean total service under the D.C. Police and/or Fire Service Salary Schedules.

ARTICLE 46
LEGAL PLAN

Section A:

The Employer shall continue to pay a legal services plan premium for each bargaining unit member. The monthly individual and/or family legal benefit premium shall be in the amount of \$5.85 per pay period effective April 1, 2014. The Employer shall make monthly premium payments directly to the designated provider of the legal services program.

Section B:

The Employer's sole responsibility under the terms of this Article shall be to make premium payments as is required under Section A of this Article. To the extent that any disputes or inquiries are made by whatever legal services provider is chosen by the Union, those inquiries shall be made exclusively to the Union. The Employer shall only be required to communicate with the Union to resolve any disputes that may arise in the administration of this Article.

ARTICLE 47
OPTICAL AND DENTAL BENEFITS

Section A - Optical:

The Employer agrees to pay for each bargaining unit member the premium for self or self/family coverage in an approved optical plan at the rate of \$8.50 per month effective April 1, 2004, \$8.84 per month effective April 1, 2005, \$9.19 per month effective October 1, 2005, and \$9.56 per month effective October 1, 2006. The Employer shall continue to make monthly premium payments directly to the provider of the optical service.

Section B - Dental:

The Employer agrees to continue to provide a dental plan which provides applicable single or family dental benefits to all bargaining unit employees. Except as provided in Section C, the benefits to be provided shall be the same as were provided during the term of the Agreement for Fiscal Years 1988-90, unless the Union agrees to a change in benefits. For purposes of this provision and for purposes of Section D below, examples of matters that would constitute changes in benefits include: (1) the charges a member will incur for any dental services (including any charges that becomes applicable if a member uses a particular dentist of his/her choice rather than some other dentist); (2) the procedures a member must follow to obtain benefits and/or to obtain payment therefor; or (3) the "open panel" features of the plan.

Section C:

- (1) The Employer's monthly dental premium payments shall not exceed \$41.97 per month for each bargaining unit member effective April 1, 2004, \$43.64 per month effective April 1, 2005, \$45.38 per month effective October 1, 2005, and \$47.20 per month effective October 1, 2006.
- (2) Should these premiums not be sufficient to maintain the same benefits as were provided during the term of the Agreement for Fiscal Years 1988-90, the Union shall identify benefits to be reduced or eliminated so as to bring the premiums to the levels specified in this Section.

Section D:

The optical and dental plans shall be contracted for by the Union, with the Employer's approval prior to implementation, and the providers shall be selected by the Union; provided, however, that the Employer may adopt a self-insured or self-funded dental plan, provided the requirements of Section B, above, with respect to maintaining the benefits that were provided during the term of the Agreement for Fiscal Years 1988-90 are complied with.

Section E:

The Employer shall be held harmless from any liability arising out of the implementation and administration of the optical and dental plans (provided that the Employer transmits each month to the carriers payments in the amounts described above, and, if the Employer establishes a self-insured dental plan, that the Employer makes all payments required pursuant thereto). If for any reason the carrier remits any part of the premium paid by the Employer, those funds shall be paid over to the Employer.

Section F:

The Benefit provider(s) shall be responsible for program administration and shall bear all such administrative costs.

Section G:

The benefit provider for dental services shall be responsible for identifying to the Employer, after surveying the unit employees, the names and numbers of employees to be carried under individual and family status.

Section H:

The Employer shall not make dual premium payments for employees who are married and are both in the bargaining unit, and the benefit provider(s) shall be responsible for identifying to the Employer the names of each designated employee for whom the premium is to be paid.

ARTICLE 48
PENSION PICK-UP PAYMENTS AND INTERNAL REVENUE CODE 125 PLAN

Section A:

The Department shall continue to “pick-up” within the meaning of Subsection 414 (h)(2) of the Internal Revenue Code, each bargaining unit member’s contribution to the Police Officers’ and Firefighters’ Retirement Fund. The contributions so “picked-up” are excludable from employees’ wages for purposes of income tax withholding and from gross income until subsequent distribution or availability to the employees.

Section B:

For purposes of determining retirement benefits, the member contributions which are picked up by the Employer shall be treated as base pay in the same manner as contributions made by employees prior to the commencement of the “pick-up” program and will, therefore, be included in compensation for purposes of retirement benefit calculations. The Employer’s contribution to the Police Officers’ and Firefighters’ Retirement Fund will be calculated on the basic pay of employees before the pick-up is deducted.

Section C:

For purposes of adjusting the Fire Service Salary Schedule, as set forth in this Agreement, the member contributions which are picked up by the Employer will be included in the member’s basic pay.

Section D:

The Employer shall continue its existing practice of making pre-tax employee premium contributions as permitted by Internal Revenue Code Section 125.

ARTICLE 49
RETIREMENT ASSISTANCE PACKAGE

The employee’s Battalion Commander will be the single point of contact to assist members who are ready to retire from the Department. The employee’s Battalion Commander will inform the employee of the assigned D.C. Office of Personnel retirement counselor within ten (10) days of being asked by the employee. The Department shall ensure that the D.C. Office of Personnel provides a complete retirement information package to include separation procedures, eligibility for keeping benefits and options, annuity amounts the member can expect and a projected date of their initial retirement check and any other monies owed.

ARTICLE 50
DEFERRED RETIREMENT OPTION PROGRAM

Section A:

The parties will establish a labor-management committee consisting of equal members of Union and Department representatives, assisted by subject matter experts from within D.C. Government

as well as those appointed by the Union to evaluate the feasibility, parameters and appropriateness of a Deferred Retirement Option Program (D.R.O.P.) for employees. The committee may seek funding for an actuarial study of such a program and may recommend potential legislative changes that would be required to implement such a change.

Section B:

In the event that any other group of District employees receives or negotiates a D.R.O.P. program during the term of this agreement, the Union and the Department agree to promptly take all necessary steps to negotiate and implement a D.R.O.P. program appropriate for the employees covered by this Agreement.

ARTICLE 51
PAY CORRECTIONS, EFFECTIVE DATES AND BACK PAY

Section A:

The Employer shall make applicable changes in an employee's pay in a timely manner.

Section B:

Upon a final determination that an employee is entitled to backpay, the Department shall submit the required forms and information to the Department of Human Resources (or other agency responsible for payment) within thirty (30) days after receipt from the employee of the required documentation (including interim earnings and other potential offsets). Backpay shall be paid within sixty (60) days of receipt from the employee of such required documentation.

Section C:

The parties agree that the effective date for pay for promotions shall be the date that the promotion was ordered by the Fire Chief, as reflected in the personnel action form.

Section D:

The parties further agree that the effective date for pay for service step increases shall be the first day of the first full pay period containing the member's anniversary date.

Section E:

The effective date for technician's pay is outlined in Article 21 of this Agreement.

ARTICLE 52
INTEGRATION OF AGREEMENT/MEMORANDA OF UNDERSTANDING

Section A:

This collective bargaining agreement represents the complete agreement between the parties for the term and cancels and supersedes any and all previous agreements entered into between the parties, subject to the limitations in this Article.

Section B - Applicability of Previous MOU's:

- (1) The Parties agree that to the extent that any party asserts that a Memorandum of Understanding (MOU) that was executed prior to the effective date of the agreement is applicable to resolve an issue pending between the parties, the party making such assertion shall provide a copy of the MOU with an explanation of the reasons for its applicability.
- (2) The MOU shall be void and inapplicable if it is determined that the MOU is: (a) contrary to the CBA; (b) inconsistent with law (c) inconsistent with Department Orders in effect on the effective date of the agreement or, if created subsequent to the effective date, orders enacted after the union has been provided notice and opportunity to bargain; (d) resolves an individual grievance without being intended to establish rules for future situations, or (e) concerns any issue previously considered and rejected during collective bargaining.
- (3) To the extent that a party asserts that a previously executed MOU is applicable under the above criteria, the MOU may be determined to be inapplicable on the basis of "changed circumstances." Within the context of this provision, "changed circumstances" shall mean that the MOU is no longer applicable due to (a) changes in the FEMS's organizational structure; (b) implementation of different standards of practice or operation; (c) operational updates; (d) changes in technology; (e) any change that has significantly altered the circumstances within the FEMS such that the MOU cannot be effectively implemented as originally intended.

ARTICLE 53
SAVINGS CLAUSE

In the event that any provision of this Agreement shall at any time be declared invalid by any court of competent jurisdiction or through government regulations or decree such decision shall not invalidate the entire Agreement, it being the expressed intention of the parties hereto that all other provisions not declared invalid shall remain in full force and effect.

ARTICLE 54
EFFECTIVE DATE, DURATION, MODIFICATION AND RENEWAL

Section A – Effective Date and Duration:

This Agreement shall remain in effect through September 30, 2014. If disapproved because certain provisions are found to be contrary to applicable law, the parties shall meet within thirty (30) days to negotiate legally constituted replacement provision(s) or the offensive provision(s) shall be deleted.

Section B – Scope:

It is understood that this Agreement contains the full understanding of the parties as to all existing matters subject to collective bargaining during the life of this Agreement, provided, however, that pursuant to the DC Government Comprehensive Merit Personnel Act of 1978, the

DC Government is empowered to take initiatives in certain subject areas which are appropriate for collective bargaining (e.g., Performance Evaluation, Programs for Employee Development, Benefit Study Program, and Occupational Safety and Health Program). To the extent that the DC Government exercises its statutory responsibility to develop such programs and agreements are reached after bargaining with Local 36 during the term of this Agreement, they shall be incorporated into this Agreement.

Section C – Modifications:

If the parties mutually agree in writing during the term of this Agreement that modifications of the Agreement are necessary, they may modify it. The party requesting the modifications shall set forth in writing the precise nature of the modifications requested and the reasons therefore. Any modification agreed upon shall become a part of this Agreement.

Section D – Renewal/Termination:

The non-compensation provisions of this Agreement will automatically be renewed for one (1) year periods after the initial term, unless either party gives to the other party written notice of intention to terminate or modify the Agreement one hundred and fifty days prior to its termination date. However, the non-compensation provisions of this Agreement shall be considered automatically opened in the event that one of the parties provides the applicable statutory notice that it is seeking to terminate or modify the compensation provisions of this Agreement.

Section E:

In the event that Local 36 serves upon the DC Government a timely notice to modify the provisions of this Agreement, but the parties have not negotiated a successor contract as of the expiration date of this Agreement, it is hereby agreed that all provisions of this Agreement shall remain in full force and effect until a successor Agreement is achieved through collective bargaining or through the applicable “impasse” resolution procedures of the DC Government Comprehensive Merit Personnel Act.