

**Meet and Confer Agreement
Between
The City of Denton
and
Denton Fire Fighters Association,
IAFF Local 1291**

Fiscal Years 2006-2007; 2007-2008 and 2008-2009

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DEFINITIONS

1. “Agreement” means this Meet and Confer Agreement entered between the City of Denton and Denton Fire Fighters Association, IAFF Local 1291.
2. “Association” means the Denton Fire Fighters Association, IAFF Local 1291, its elected leaders and its collective membership.
3. “City” means the City of Denton, its mayor, city council members, city manager, fire chief and those persons designated by the City of Denton to manage the city and its fire department.
4. The term “commission” means the Denton Fire Fighters’ and Police Officers’ Civil Service Commission.
5. The term “days” refers to calendar days unless otherwise specified.
6. The term “Department” or “Fire Department” means the Denton Fire Department.
7. The term “Department head” or “Fire Chief” means the Fire Chief of the Denton Fire Department, designee, interim, or an acting Chief of the Denton Fire Department.
8. The term “director” means the director of the Denton Fire Fighters’ and Police Officers’ Civil Service Commission.
9. The term “Local Rule” means the Local Rules and Regulations of the Denton Fire Fighters’ and Police Officers’ Civil Service Commission.
10. The term “Firefighter” means a member of the Denton Fire Department who was appointed in substantial compliance with Chapter 143 of the Texas Local Government Code who is entitled to civil service status under section 143.005 of the Texas Local Government Code and excludes persons attaining civil service status under article 2.
11. “Parties” or “parties” means the City of Denton and the Denton Fire Fighters Association, IAFF Local 1291 and “Party” or “party” means either the City of Denton or the Denton Fire Fighters Association, IAFF Local 1291.

ARTICLE 1
RECOGNITION

The CITY OF DENTON recognizes the DENTON FIRE FIGHTERS ASSOCIATION, IAFF LOCAL NO.1291, as the sole and exclusive bargaining agent for the covered Firefighters described in the petition for recognition, excluding the head of the fire department and excluding the employees exempt under Subsection (b), in accordance with subchapter C of Chapter 142 of the Texas Local Government Code.

**ARTICLE 2
CIVIL SERVICE TRANSITION
FOR CERTAIN CIVILIAN POSITIONS**

Section 1. Intent

The Parties agree to reclassify certain non-civil service civilian positions in the Fire Prevention Division and Administration Division to civil service for certain civil service benefits and protocols under Chapter 143 of the Texas Local Government Code to create a more unified Department incorporating Operations, Administration and Fire Prevention. The Parties intend for any variation of civil service provisions by this Agreement to also apply to the reclassified positions affected by this article unless provided otherwise by the Agreement.

Section 2. Employees Affected and Civil Service Status

(A) The non-civil service positions affected by this article include the Public Education Officer, Fire Inspector, Senior Fire Inspector, Fire Protection Engineer Associate, Assistant Fire Marshal, Fire Marshal, Fire Recruitment Management Analyst and Emergency Management Program Manager. A Fire Department employee who serves in one of these positions is not required to take a competitive examination to remain in the employee's position if the employee was appointed to that position before October 1, 2006, the effective date of this Agreement, and the City's governing body by ordinance amends the City's existing classification of Fire Department employees to include the employee's position as provided by section 143.021 of the Texas Local Government Code.

(B) At the time of the effective date of this Agreement, and the City's governing body by ordinance amends the City's existing classification of Fire Department employees to include the employee's position, the non-civil service employees affected by this article shall automatically waive into and qualify for the provisions of civil service status under Chapter 143 concerning classification status, disciplinary action, appeals, protocols, sick leave, on duty injury leave, and other such provisions, with the exception of those provisions relating to promotions or transfers and except as otherwise provided in this Agreement.

Section 3. New Fire Prevention Division Titles and Ranks

(A) Public Education Officer, Fire Inspector and Senior Fire Inspector

(1) Classification and Assignment Pay

The Public Education Officer, Fire Inspector and Senior Fire Inspector shall be classified in place at current base pay plus \$300 per month assignment pay. Each of these classifications will be eliminated when vacated and will be replaced with a Fire Inspector Specialist classification.

(2) Base Salary for Public Education Officer, Fire Inspector and Senior Fire Inspector

(a) First Contract Year. The recommended base salary percentage increase for Public Education Officer, Fire Inspector and Senior Fire Inspector for the first contract year shall include an increase of four percent (4%) on October 7, 2006, and a second increase of four percent (4%) on April 7, 2007.

(b) Second Contract Year—Base Pay Determination. The recommended base salary percentage increase for the second contract year shall be calculated by taking the average percentage increase, excluding step increases, for the second contract year for the ranks of Fire Recruit, Fire Fighter, Fire Driver, Fire Captain, and Fire Battalion Chief.

(c) Third Contract Year—Base Pay Determination. The recommended base salary percentage increase for the third contract year shall be calculated by taking the average percentage increase, excluding step increases, for the third contract year for the ranks of Fire Recruit, Fire Fighter, Fire Driver, Fire Captain, and Fire Battalion Chief.

(B) Fire Protection Engineer Associate

(1) Classification and Assignment Pay

The Fire Protection Engineer Associate shall be classified in place at current base pay plus \$400 per month assignment pay. This classification will be eliminated when vacated and replaced with a Fire Protection Specialist.

(2) Base Salary for Fire Protection Engineer Associate

(a) First Contract Year. The recommended base salary percentage increase for the Fire Protection Engineer Associate for the first contract year shall include an increase of four percent (4%) on October 7, 2006, and a second increase of four percent (4%) on April 7, 2007.

(b) Second Contract Year—Base Pay Determination. The recommended base salary percentage increase for the second contract year shall be calculated by taking the average percentage increase, excluding step increases, for the second contract year for the ranks of Fire Recruit, Fire Fighter, Fire Driver, Fire Captain, and Fire Battalion Chief.

(c) Third Contract Year—Base Pay Determination. The recommended base salary percentage increase for the third contract year shall be calculated by taking the average percentage increase, excluding step increases, for the third contract year for the ranks of Fire Recruit, Fire Fighter, Fire Driver, Fire Captain, and Fire Battalion Chief.

(C) Assistant Fire Marshal

(1) Classification and Assignment Pay

The Assistant Fire Marshal shall be classified in place at current base pay plus \$500 per month assignment pay. This classification will be eliminated when vacated and replaced with a Deputy Fire Marshal.

(2) Base Salary for Assistant Fire Marshal

(a) First Contract Year. The recommended base salary percentage increase for Assistant Fire Marshal for the first contract year shall include an increase of four percent (4%) on October 7, 2006, and a second increase of four percent (4%) on April 7, 2007.

(b) Second Contract Year—Base Pay Determination. The recommended base salary percentage increase for the second contract year shall be calculated by taking the average percentage increase, excluding step increases, for the second contract year for the ranks of Fire Recruit, Fire Fighter, Fire Driver, Fire Captain, and Fire Battalion Chief.

(c) Third Contract Year—Base Pay Determination. The recommended base salary percentage increase for the third contract year shall be calculated by taking the average percentage increase, excluding step increases, for the third contract year for the ranks of Fire Recruit, Fire Fighter, Fire Driver, Fire Captain, and Fire Battalion Chief.

(D) Future Base Pay for Fire Inspector Specialist, Fire Protection Specialist and Deputy Fire Marshal

Once a newly classified position under Section 2 of this article is vacated, for reclassification for that position, future base pay for Fire Inspector Specialist, Fire Protection Specialist and Deputy Fire Marshal will be made by recommendation by the joint Labor/Management Committee to the Department head. The Department head will determine whether to adopt the recommendation.

(E) Future Job Descriptions for Fire Inspector Specialist, Fire Protection Specialist and Deputy Fire Marshal

The joint Labor/Management Committee will develop job descriptions including minimum and preferred qualifications for these new civil service positions of Fire Inspector Specialist, Fire Protection Specialist and Deputy Fire Marshal and make a recommendation to the Department head. The Department head will determine whether to adopt the recommendation.

Section 4. Fire Recruitment Management Analyst

(A) Classification and Assignment Pay

The position of Fire Recruitment Management Analyst will be classified in place at current base pay plus \$500 per month assignment pay. This classification will be eliminated when vacated and replaced with a Fire Recruitment Captain. Base pay for Fire Recruitment Captain at that point will be equivalent to Fire Captain. The joint Labor/Management Committee, will develop and recommend a job description to the Department head including minimum and preferred qualifications for the new civil service position. The Department head will determine whether to adopt the recommendation and will determine minimum and preferred qualifications for this position.

(B) Base Salary for Fire Recruitment Management Analyst

(1) First Contract Year. The recommended base salary increase for Fire Recruitment Management Analyst for the first contract year shall include an increase of four percent (4%) on October 7, 2006, and a second increase of four percent (4%) on April 7, 2007.

(2) Second Contract Year—Base Pay Determination. The recommended base salary increase for the second contract year shall be calculated by taking the percentage increase, excluding step increases, for the second contract year for the rank of Fire Captain.

(3) Third Contract Year—Base Pay Determination. The recommended base salary increase for the third contract year shall be calculated by taking the percentage increase, excluding step increases, for the third contract year for the rank of Fire Captain.

Section 5. Fire Marshal and Emergency Management Program Manager

(A) Fire Marshal and Emergency Management Program Manager By Appointment

The positions of Fire Marshal and Emergency Management Program Manager shall be appointed by the Department head and shall not be filled by promotional examination. A person appointed under this section serves at the pleasure of the Department head.

(B) Fire Marshal Classification

The Fire Marshal shall be classified in place at current base pay plus \$600 per month assignment pay.

(C) Emergency Management Program Manager

The Emergency Management Program Manager shall be classified in place at current base pay plus \$500 per month assignment pay.

(D) Future Base Pay Prior to a Vacancy Occurring

The future base pay for Fire Marshal and Emergency Management Program Manager, prior to a vacancy occurring in each respective position, will be determined by the Department head based on market comparisons in accordance with City of Denton policy.

(E) Upon the Vacancy in the Current Positions

(1) Determination of Job Descriptions and Base Pay

When a vacancy occurs in either of the current positions of Fire Marshal or Emergency Management Program Manager, the base pay and minimum and preferred qualifications for that position from the time of vacancy will be made by recommendation by the joint Labor/Management Committee to the Department head. The Department head will

determine whether to adopt the recommendation and ultimately will determine minimum and preferred qualifications and base pay for that position.

(2) Vacancy To Be Filled by Appointment by the Department Head

Vacancies in the positions of Fire Marshal or Emergency Management Program Manager shall be filled by appointment by the Department head. Appointments for Fire Marshal or Emergency Management Program Manager will be made by the Department head from within the Department, following the procedure outlined below. If no suitable candidate from within the Department exists, the Department head may appoint a person from outside the Department.

Procedure:

1. Job Announcement for potential candidate(s) within the Department
2. Candidate(s) submit a letter of interest and resume
3. Application review for minimum and preferred qualifications
4. Department head's interview
5. Appointment from within the Department or proceed to external process if no suitable internal applicant
6. External Job Announcement
7. Candidate(s) submit a letter of interest and resume
8. Application review for minimum and preferred qualifications
9. Department head's interview
10. Appointment from external candidate

In the event that an internal candidate applies and proceeds through step 4, but is not selected and the Department head proceeds to the external process, that candidate may seek review of the non-selection. The internal candidate may seek review by providing a written statement to the Department head within ten (10) calendar days from the date of the notification of non-selection stating the basis for review.

The review process shall be as follows:

- (1) The joint Labor/Management Committee shall review the Department head's decision and make a non-binding recommendation in writing to the Department head within five (5) business days from the date that the candidate seeks review; then
- (2) The internal candidate may seek review of the non-selection to the commission by submitting a request in writing to the director within five (5) business days from the date of the recommendation of the joint Labor/Management Committee.

The commission shall have ten (10) business days to conduct a hearing and render a decision sustaining or overruling the Department head's decision to seek an external candidate. The standard of review by the commission is whether the Department head's decision is arbitrary and capricious. The commission's decision shall be final and binding with no right of appeal to an arbitrator or district court.

Deadlines in this article may be extended by mutual agreement by the internal candidate seeking review and the Department head.

(F) Internal Appointment

In the event that an internal Firefighter or newly classified employee under this article fills the vacancy, only subsections 143.014(g) and 143.014(h) of 143.014 of the Texas Local Government Code shall apply.

(G) External Appointment

In the event that an external candidate fills the vacancy, only subsection 143.014(h) of 143.014 of the Texas Local Government Code shall apply after a twelve (12) month probationary period applicable to an external appointment, except that the provision relating to being restored to the same classification or its equivalent shall not apply.

Section 6. Transfer

(A) Restrictions

The reclassified employees under this article may not transfer out of their current assigned Division into any other classified civil service position in another Division in the Department. Reclassified Prevention Division employees under this article are eligible to promote within their currently assigned Division.

(B) Effect of Transfer

Operations Division Firefighters who transfer to the Fire Prevention Division or Administration Division are eligible to take the Operations Division's promotional examinations, provided they meet the requirements for the promotional examination under Chapter 143 of the Texas Local Government Code and any pre-requisites for promotion as determined under Article 5 of this Agreement. It is the intent of the Parties that, when transfer processes between Divisions are outlined by recommendation by the joint Labor/Management Committee and determined by the Department head, a Firefighter does not gain rank or lose rank by transferring between Divisions.

Section 7. Vacancies

Vacancies in any of the newly classified positions other than Fire Marshal and Emergency Management Program Manager will be filled by a competitive process. The format of the competitive process and pre-requisites for that process will be made by recommendation of the joint Labor/Management Committee by June 1, 2007, to the Department head. The Department head will determine whether to adopt the recommendation and will determine the competitive processes for these positions. The Parties intend that the competitive processes addressed in this section are not restricted by Article 5, the Promotions article, in this Agreement or restricted by Chapter 143 of the Texas Local Government Code.

Section 8. Commission's Role

The commission may adopt rules under this article providing for the efficient administration of this article.

Section 9. Statutory Override

To the extent this article reclassifies existing civilian positions of Public Education Officer, Fire Inspector, Senior Fire Inspector, Fire Protection Engineer Associate, Assistant Fire Marshal, Fire Marshal, Fire Recruitment Management Analyst and Emergency Management Program Manager to civil service positions this article overrides section 143.003(4) and section 143.003(4)(A). This article is the exclusive process and provision by which the positions of Public Education Officer, Fire Inspector, Senior Fire Inspector, Fire Protection Engineer Associate, Assistant Fire Marshal, Fire Marshal, Fire Recruitment Management Analyst and Emergency Management Program Manager are afforded civil service status. Unless otherwise provided in this article, this article overrides sections 143.014, 143.015 to the extent limited in section 5 of this article, 143.026, 143.028, 143.029, 143.030, 143.032, 143.033, 143.034, 143.036 (except the definition of vacancy) and 143.085 of the Texas Local Government Code. The overrides to Chapter 143 of the Texas Local Government Code also apply to this article and to the reclassified positions of Public Education Officer, Fire Inspector, Senior Fire Inspector, Fire Protection Engineer Associate, Assistant Fire Marshal, Fire Marshal, Fire Recruitment Management Analyst and Emergency Management Program Manager.

ARTICLE 3
LABOR/MANAGEMENT RELATIONS

Each Party shall designate three (3) representatives to serve on a joint Labor/Management Committee (“Committee”). This Committee shall meet quarterly at agreeable times and places to discuss matters of mutual concern. Such discussion shall not be tantamount to, or an extension of, the bargaining process, but shall be for the purpose of encouraging productive relations between the parties and the improvement of the fire services to the community. A minimum of two (2) members from each party must be present for a meeting to be held. The Department head will make reasonable efforts to accommodate requests by Association members to attend if they are on duty. Both parties understand and agree that Committee meetings are not required on any issue, except where provided for in Articles 2, 4 and 5 of this Agreement, and are not a condition nor limitation on the management rights to make and enforce policies, rules, regulation, or operational decisions.

The work of the Committee shall be conducted on City time without loss of pay by Committee members; except that meetings which are scheduled at times when Association members who are not on duty, such members shall attend on their own time without compensation.

ARTICLE 4 HIRING PROCESS

Section 1. Intent

In adopting this article, the Parties agree to implement a hiring system for beginning position in the Department to provide for selection based upon the determination by an Oral Interview Board and the Chief's Interview. The parties believe a determination by the Oral Interview Board and Chief's Interview for beginning positions will improve the selection process and provide applicants a fair opportunity to demonstrate skills and abilities that serve as additional good indicators that they will perform well in the Department.

Section 2. Adoption and Publication of Rules

Any Local Rules that may be adopted by the commission shall be in conformity with the provisions of this article.

Section 3. Written Examination and Commission List

(a) Written Examination and Military Points

The written examination under Chapter 143 of the Texas Local Government Code shall be administered and the minimum passing grade on the written examination is 70 percent. An additional five (5) points shall be added to the examination grade of an applicant who served a minimum of 180 active days in the United States armed forces, received an honorable discharge, and made a passing grade on the examination. In the event a tie should occur, the process to break a tie will follow the Department Hiring Guideline. A passing grade on the written examination may permit the applicant to proceed to the next step(s) in the hiring process. The grade on the written examination will not serve as the grade for ranking on the eligibility list; however, the written examination grade, plus any applicable military points, will determine the ranking for a Commission List from which applicants proceed through the remainder of the hiring process.

(b) Commission List

In this article "Commission List" shall mean the list of applicants who made a passing grade on the written examination ranked from highest to lowest including any applicable military points and shall not mean the eligibility list from which an applicant may be appointed.

When a vacancy occurs in a beginning position in the Fire Department, the Department head shall request in writing from the director the names of suitable persons from the Commission List outlined in subsection (a) above. The director shall certify and provide to the Department head all of the names of such applicants on the Commission List. From the Commission List of names, the Department head shall identify a number of

applicants, based on the determination of the Department head related to the number of vacancies, with the highest ranking to proceed through the process.

Section 4. Background Check and Physical Ability Test

(a) Background Check

After the Department head determines an applicant to be eligible to proceed through the process by the Department head, the applicant will proceed through the Background Check in accordance with the Department's Hiring Guidelines. If an applicant passes the Background Check, then the applicant shall proceed to the Physical Ability Test. If an applicant does not pass the Background Check, the applicant will be disqualified from any further consideration in the hiring process.

(b) Physical Ability Test

From the list of names of applicants who passed the background check, the applicant will proceed to the Physical Ability Test in accordance with the Department's Hiring Guidelines. If an applicant passes the Physical Ability Test, then the applicant may be considered to proceed to the Oral Interview Board. If an applicant does not pass the Physical Ability Test, the applicant will be disqualified from any further consideration in the hiring process.

(c) Selection of Fifteen (15) candidates to Proceed to Oral Interview Board

From the list of names of applicants who passed the Physical Ability Test, the Department head shall identify the fifteen (15) applicants with the highest ranking on the Commission List who have passed the Background Check and Physical Ability Test to proceed to the next step in the process. In the event that those fifteen (15) names are exhausted after the completion of the Oral Interview Board and Chief's Interview, then the Department head shall identify a number of applicants (the number to be identified at that Department head's discretion) on the Commission List to proceed to the next step in the process in order to create a new list of fifteen (15) applicants.

Section 5. Oral Interview Board

(a) Oral Interview Board

The joint Labor/Management Committee shall establish an Oral Interview Board made up of four (4) members with four (4) alternate members. Three (3) of those members and three (3) of the alternate members shall come from the Department. One (1) of those members and one (1) of the alternate members shall be a citizen member from the City of Denton chosen by the Department head. It is understood that all members and alternate members of the Oral Interview Board will receive appropriate training to conduct interviews.

(b) Interview

The Oral Interview Board will interview eligible applicants determined by the preceding steps in this article. Each member of the Oral Interview Board will assign an applicant a score from zero (0) to one hundred (100) points. The average of those four (4) scores will be calculated and will be the final Oral Interview Board score for each eligible applicant. If an applicant obtains a final Oral Interview Board score of seventy (70) points or more, an applicant will proceed to the Chief’s Interview. If an applicant does not pass with a score of seventy (70) points or more, the applicant will be disqualified from any further consideration in the hiring process.

Section 6. Chief’s Interview

The Fire Chief will interview eligible applicants determined by the preceding steps in this article. The Fire Chief shall invite the Deputy Fire Chief or Battalion Chief(s) to attend the Fire Chief’s Interview for all eligible applicants. The Chief will assign an applicant a score from zero (0) to one hundred (100) points. Any input from the Deputy Fire Chief or Battalion Chief will be included in the Chief’s score. This score will be the final Chief’s Interview score for each eligible applicant. If an applicant does not pass with a score of seventy (70) points or more, the applicant will be disqualified from any further consideration in this hiring process.

Section 7. Eligibility List

The overall score to be placed on the eligibility list for each eligible applicant shall be computed by taking the applicant’s final Oral Interview Board score and multiply the score by .70 to the account for seventy percent (70%) of the applicant’s final overall score; and adding the applicant’s final Chief’s Interview score and multiply that score by .30 to account for thirty percent (30%) of the applicant’s final overall score (see below).

$$\begin{aligned}
&(4 \text{ Oral Interview Board Scores divided by } 4 = \text{final Oral Interview Board Score}) \times 70\% \\
&\quad + \\
&\quad (\text{final Chief’s Interview score}) \times 30\% \\
&\quad = \\
&\quad \text{applicant’s final overall score}
\end{aligned}$$

When a vacancy occurs, the Department head shall appoint the eligible suitable applicant having the highest final overall score on the eligibility list unless the Department head has a valid reason for not appointing the person. Each hiring eligibility list remains in existence for one (1) year after the written examination unless exhausted. At the expiration of the one-year period, the eligibility list expires and a new hiring procedure may be held. All applicants may be subject to a polygraph examination at the Department head’s discretion.

Section 8. Effect of an Eligibility List Created Under this Article

A hiring eligibility list in existence at the time of the adoption of this article shall continue in effect until its expiration in accordance with section 143.025(h) of the Texas Local Government Code. Any hiring eligibility list created under this article will take effect upon the expiration of any applicable pre-existing list.

Section 9. Probationary period

Unless already certified as both a firefighter by the Texas Commission on Fire Protection and a paramedic by the Texas Department of State Health Services, a person appointed to a beginning position in the Department must serve a probationary period of up to eighteen (18) months beginning on that person's date of employment as a Fire Fighter, or trainee. A person appointed to a beginning position in the Department who is certified as both a fire fighter and a paramedic shall serve a probationary period of twelve (12) months.

Section 10. Disqualification

In the event an applicant is disqualified at any point in the hiring process, the Department head shall clearly set forth in writing the good and sufficient reason why a person was disqualified.

Section 11. Statutory Override

This article supercedes the following sections of the Texas Local Government Code to the extent the article may be in conflict with any of these sections: section 143.025(a) to account for an Oral Interview Board and Chief's Interview only to be administered to certain applicants that meet the hiring process criteria under the rules implemented in accordance with this article and to establish the eligibility list based on the Oral Interview Board and Chief's Interview as outlined in this article; section 143.025(b) to base the eligibility list on the Oral Interview Board and Chief's Interview final overall score as outlined in this article; sections 143.025(c), 143.025(d) and 143.025(e) to provide for the Oral Interview Board and Chief's Interview to interview applicants outside the presence of other applicants and at different times; section 143.025(i) to provide for an Oral Interview Board and Chief's Interview in the grading process and for establishment of an eligibility list as outlined in this article; sections 143.026(a), 143.026(b), 143.026(c) and 143.026(d) to allow the creation of various lists in the hiring process as outlined in this article, to allow for appointment and disqualification by the Department head, to account for the Oral Interview Board and Chief's Interview final overall score as a basis for the applicant's selection, and to eliminate the requirement of filing reasons of a pass over with the commission; and section 143.027 regarding probationary period.

This article further preempts, to the extent of any conflict, all contrary state statutes, local ordinances, executive orders, civil service provisions, or rules adopted by the Department head or head of the City or by a division or agent of City, such as the commission.

ARTICLE 5 PROMOTIONS

Section 1. Intent

In adopting this article, the Parties agree to implement improvements to the promotional process for the Department by improving pre-requisites that qualify a candidate to take a promotional written examination. The parties believe the improving pre-requisites for promotional written examinations will improve the promotional process and will provide promotional candidates a fair opportunity to meet pre-requisites that serve as additional good indicators that they will perform well in the positions to which they seek to be promoted.

Section 2. Definitions

- (a) In this article “written examination” means the written examination provided for promotions under Chapter 143 of the Texas Local Government Code.
- (b) In this article, “pre-requisites” means the minimum qualifications and conditions required of candidates for eligibility to take a Chapter 143 written examination for promotion within the Department.

Section 3. Role of Commission

Any Local Rules that may be adopted by the commission shall be in conformity with the provisions of this article.

Section 4. Minimum Qualifications

- (a) Within ninety (90) days of the execution of this Agreement, the joint Labor/Management Committee appointed as provided in Article 3 will recommend pre-requisites for taking promotional written examinations prior to the posting of the Position Opportunity Announcement publication each year. The Department head will determine whether to adopt the recommended pre-requisites. In the event the pre-requisites are adopted by the Department head, the pre-requisites will be effective twelve (12) months after their posting in the Position Opportunity Announcement publication.
- (b) In the event pre-requisites are not recommended by the expiration of the ninety (90) day time period, the Department head may extend the time period at his/her discretion or may proceed with the then existing qualifications. In this circumstance, the Department head may request a report from the joint Labor/Management Committee outlining the pre-requisites developed at that point.

Section 5. Evaluation

The joint Labor/Management Committee will establish a system within the joint Labor/Management Committee to evaluate the promotional process and the pre-requisites established. The joint Labor/Management Committee shall prepare a written evaluation for the Department head within sixty (60) days after the administration of each written examination.

Section 6. Promotion From Fire Fighter Rank to Driver Rank

(a) Intent of this Section

The parties do not intend for a Fire Fighter's pay to be reduced in the event the Fire Fighter is promoted from Fire Fighter rank to Driver rank. The Parties understand that, under certain circumstances, a Fire Fighter Step F base salary may be higher than the base salary of a Driver Step A. It is the intent of the Parties that, in those circumstances, such promoted Driver receive the Driver Step B base salary.

(b) Pay for Certain Drivers

In the event a Fire Fighter is at Step F in the Fire Fighter rank and promotes to a Driver rank and the base salary for Driver Step A is less than the base salary for Fire Fighter Step F, then, as a Driver, that Driver shall receive the Driver Step B pay instead of Driver Step A pay as his/her base salary. That Driver's base salary will continue at the Step B designation until the beginning of year five (5) as a Driver.

Section 7. Eligibility List

When a vacancy occurs in a nonentry position that is not appointed by the Department head, the director, on request by the Department head, shall certify to the Department head the names of the eligibility list. This section of the article shall supercede Section 143.036(b) of the Local Government Code to the extent that Section requires the certification of persons on the eligibility list to be certified three (3) persons at a time. This section of the article is intended to omit the administrative process of providing three (3) names at a time and instead provide a process where all names of the persons on the eligibility list are certified and provided at once when filling a vacancy for a nonentry position in the Fire Department.

Section 8. Statutory Override

This article supercedes the following sections of the Texas Local Government Code: sections 143.030(b) and (c) to alter pre-requisites for promotions; section 143.030(d), sections 143.032(a), 143.032(b), 143.032(c), and 143.032(d) to provide for pre-requisites for the promotional process as determined by the joint Labor/Management Committee to the extent any of those pre-requisites may be deemed to conflict with these sections; and section 143.036(a) to provide for the promotional process in accordance with this article

and to the extent any provisions of this article may be deemed to conflict with this section.

This article further preempts, to the extent of any conflict, all contrary state statutes, local ordinances, executive orders, civil service provisions, or rules adopted by the Department head or head of the City or by a division or agent of the City, such as the commission.

ARTICLE 6 NEPOTISM

Section 1. Purpose

The Denton Fire Department through employment, promotion, or transfer of relatives, will not contribute to the creation of any inequity or impropriety among its members. The purpose of this procedure is to communicate a Department policy regarding employment and supervisory relationships among family members.

Section 2. Definition and Scope of Application

During the term of this Agreement, the parties agree that the definition of "relative" shall meet the same definition of "familial relationship" provided by current City Policy Reference Number 102.08 dated September 3, 2002, and agree this article applies to a Firefighter as defined in this Agreement or a position reclassified in Article 2.

Section 3. Appointment of Relatives to City Employment

Members of the Department assigned to positions that make appointments, conduct interviews, promote, etc. cannot participate and must disqualify themselves if a relative is a candidate. In addition, members shall notify the Fire Chief in writing to disclose the relationship or interest involved.

Section 4. Immediate Supervisory Relationships

Members shall not directly supervise a relative. Direct or immediate supervision includes participation in a hiring decision, promotional decision, disciplinary decision, or preparing or influencing a performance evaluation of a relative. In Battalion, relatives shall not be assigned to the same shift. Temporary shift swaps or overtime assignments are permitted, provided there is no immediate supervisory relationship. At the discretion of the Incident Commander, the prohibition on the immediate supervisory relationship of relatives during emergency operations is put aside.

Irrespective of the immediate supervisory relationship, members shall not participate in a decision involving the financial interest of a relative, including hiring, promotion, discipline and pay increases. In addition, members shall not attempt to influence others in a financial interest of a relative.

Section 5. Changes or Amendments During Term of Agreement

It is understood that during the term of this agreement, if either party requests in writing a meeting concerning changes or amendments to the definition of the term "relative," the parties shall meet within ten calendar days to discuss such changes or amendments. Changes made to section 2 are not subject to ratification by the Association or the City Council.

ARTICLE 7
SAFETY AND HEALTH

It is the desire of the City and the Association to maintain the highest standards of safety and health in the Fire Department. The City and Association agree to use NFPA 1583, NFPA 1582 and the IAFF/IAFC Joint Wellness Fitness Initiative as a guideline for the implementation of policy regarding health and safety issues in the Department over time. The parties agree to create a standing Wellness Committee that will work on implementing the requirements of rule 435.21 of the Texas Commission on Fire Protection and will work on the implementation of standardized physicals. In furtherance of the parties' desired goals, the parties will explore the feasibility of a position in the Department that would serve as a safety and wellness officer prior to the expiration of the Agreement.

ARTICLE 8 DISCIPLINE

Section 1. Time to Investigate Charges

In the original written statement and charges and in any disciplinary suspension hearing conducted under this Agreement or Chapter 143, the Department head shall have 180 days to investigate and take disciplinary action from the date the Department head discovers an act, provided that the Department head may not complain of or take disciplinary action for an act (not related to criminal activity) that occurred more than one year before the date of disciplinary action. This section of the article shall supercede the first sentence of section 143.052(h) of the Texas Local Government Code. Nothing in this article affects the remainder of section 143.052(h) or affects section 143.056 of the Texas Local Government Code.

ARTICLE 9 BASE PAY

Section 1. Base Pay Philosophy

It is the desire of the City to recognize that the employees of the City of Denton Fire Department perform their responsibilities at a level that is above the typical metroplex fire agency. As such, it is the desire of the City to maintain a pay philosophy that exceeds the average metroplex pay for fire fighters.

Section 2. Comparator Cities

Arlington, Carrollton, Dallas, Fort Worth, Frisco, Garland, Irving, Lewisville, McKinney, Mesquite, Plano and Richardson shall be used as comparator cities for the salary survey to be conducted each year of this contract. The City and Association shall convene a Labor/Management Pay Subcommittee to perform a survey in May 2007 and May 2008 upon which the proposed base salary adjustments for the following fiscal years shall be calculated. Based on the survey information of the comparator cities, the average of base pay for minimums and maximums for each rank shall be calculated and proposed for approval as a part of the budget process.

Section 3. Annual Base Salary Proposal Calculation

The annual base salary adjustments for the ranks of Fire Recruit, Fire Fighter, Fire Driver, Fire Captain, and Fire Battalion Chief shall be proposed on the basis of the following calculations:

- (a) First Contract Year. The recommended base salary increase shall include an increase of four percent (4%) per rank on October 7, 2006, and a second increase of four percent (4%) per rank on April 7, 2007.
- (b) Second Contract Year—Base Pay Determination. The recommended monthly base pay scale shall be calculated by the salary survey conducted in May 2007, utilizing the average minimum base salary for each rank of the 12 comparator cities as specified in this contract, plus five percent (5%). The recommendation will propose that each rank, including each step within that rank, will receive an increase (should an increase be required) to match the survey average minimum base salary for each respective rank plus five percent (5%).
- (c) Second Contract Year—Additional Step. An additional step position will be added to each rank in year 2 of the contract. The step proposed for Fire Fighter will be at year 7, the step proposed for Fire Driver will be at the beginning of year 3, the step proposed for Fire Captain will be at the beginning of year 3, and the step proposed for Fire Battalion Chief will be

at the beginning of year 3. The base salary for these additional steps will be proposed at five percent (5%) above the step immediately below.

- (d) Third Contract Year—Base Pay Determination. The recommended monthly base pay scale shall be calculated by the salary survey conducted in May 2008, utilizing the average minimum base salary and the average maximum base salary for each rank of the 12 comparator cities as specified in this contract, plus five percent (5%). The recommendation will propose that each rank, including each step within that rank, will receive an increase (should an increase be required) to match the survey average minimum base salary for each rank plus five percent (5%). The recommendation will propose that the year 7 step for Firefighter will receive an increase (should an increase be required) to match the survey average maximum base salary for that rank plus five percent (5%).
- (e) Third Contract Year—Additional Step. An additional step position will be added for the ranks of Fire Driver, Fire Captain and Fire Battalion Chief in year 3 of the contract. The step proposed for Fire Driver will be at the beginning of year 5, the step proposed for Fire Captain will be at the beginning of year 5, the step proposed for Fire Battalion Chief will be at the beginning of year 5. These proposed steps will reflect an increase (should an increase be required) to match the survey average maximum base salary for each rank plus five percent (5%).

Section 4. Funding Obligations

Depending upon the financial forecasts, the City maintains the right to implement the base wage increases and additional steps outlined in sections 3(a) through 3(e) between the first pay period of the fiscal year and the first pay period of April of each fiscal year. The City presently intends to continue this Agreement each fiscal year through its term, to pay all payments due, and to fully and promptly perform the obligations of the City under this Agreement.

All obligations of the City shall be paid only out of current revenues or any other funds lawfully available for those obligations, including tax revenues reasonably anticipated at equal or higher total gross amounts as were collected in fiscal year 2005-2006, and appropriated for such purpose by the City Council, in compliance with the Texas Constitution, Article XI, Sections 5 and 7. In the event that the City Council adopts a resolution declaring that the City cannot meet its funding obligations for this Agreement after exhausting all reasonably available recurring revenue, as provided in the State Constitution, this agreement shall be reopened for negotiation with the Association. In such an event, the provisions of this Agreement remain in full force and effect except as amended by agreement of both Parties.

If at any time during the term of this Agreement, or any extension thereof, a reduction occurs because the electorate of the City subjects the government of the City to a rollback

election; and as a result of such rollback election, the City suffers a reduction in revenues due to a reduction in the tax rate, the Agreement shall be reopened for negotiation with the Association. In such an event, the provisions of this Agreement remain in full force and effect except as amended by agreement of both Parties.

ARTICLE 10
PENSION

For each year of the Agreement, the City shall increase its contribution toward the Firemen's Retirement and Relief Fund by 1% as of the date of the new fiscal year; however, the contribution level toward the Fireman's Retirement and Relief Fund under this article shall not exceed the City's actuarial contribution rate to the Texas Municipal Retirement System.

ARTICLE 11
DEFERRED COMPENSATION PLAN

Section 1. Optional Retirement Program

The City will make available the IAFF Financial Corporation 457 Plan (“IAFF Plan”) in January 2007 as one of the options that a Firefighter or newly classified employee in the Department may participate provided that:

- (1) confirmation is obtained prior to then from International City Managers’ Association-Retirement Corporation (“ICMA-RC”) that there will be no change to asset management fees paid by members currently participating in the ICMA-RC 457 plan; and
- (2) the City will bear no additional expenses.

A Firefighter or newly classified employee in the Department wishing to participate in the IAFF Plan assumes full responsibility for tax or penalty provisions as applicable under federal state or local law.

ARTICLE 12
ASSOCIATION BUSINESS LEAVE

Section 1. Association Business Leave

Authorized Association Representatives who are on duty shall be permitted to have paid time off, designated as Association Business Leave (ABL), to conduct Association business under the conditions specified in this article provided that the ABL does not impact the mission of Department including operations, staffing, training or other scheduled Department functions.

Section 2. Permitted Uses of ABL

ABL may be used for activities that directly support the mission of the Department or the Association, or are deemed mutually beneficial to both the Department and Association, but do not otherwise violate the specific terms of this article. It is specifically understood and agreed that no paid time off shall be utilized for political lobbying at the local, state, or nation level.

The Department head will make reasonable scheduling adjustments and accommodations pursuant to ABL requests to allow authorized Association Representative to participate on behalf of the Association to attend scheduled Meet and Confer negotiating session, sub-committee meetings, and joint Labor/Management Committee sessions between the Association and the City.

The Association President or his designee may be granted reasonable time off pursuant to and ABL request during working hours to investigate and process grievances, to attend Civil Service, Arbitration, or Court Hearings and to represent Association employees in disciplinary action provided that the President or his designee shall request permission from his Battalion Chief. Whenever possible, notification is to be made prior to or at the beginning of a shift.

The officers of the Association may be granted ABL for membership meetings of the Association that take place when such officers are scheduled to be on duty. This leave with pay shall be limited to one (1) meeting per month no to exceed two (2) hours per meeting.

ABL may be granted up to two (2) Association representatives to attend the TSAFF or IAFF convention, TSAFF Leadership Conference. TSAFF Service Training Class, IAFF Affiliate Leadership Training Seminar, or the IAFF Human Relations Conference.

The Association shall endeavor to conduct all necessary Association business during the non-working time to the greatest number of Firefighters required for such business to the greatest extent possible.

Section 3. Written Request Required

All requests for ABL must be in writing and submitted at least three (3) days in advance to Fire Administration but requests should be made as soon as possible. To be considered timely, the request must be received in person, by fax, or by e-mail by noon of the day notice is due.

Section 4. Approval of ABL Requests

The Department head or the Department head's designee will review timely ABL requests to determine approval based on operations, staffing, training or other scheduled Department functions.

**ARTICLE 13
CONTRACT INTERPRETATION
DISPUTE RESOLUTION PROCEDURE**

Section 1. Scope of Procedure

The City and Association recognize that from time to time disagreements between the Parties may arise as to the application or interpretation of this Agreement. The Parties therefore agree that the purpose of this dispute resolution procedure is to provide a just and equitable method for resolving disagreements between the Parties regarding the application or interpretation of the provisions of this Agreement. Matters involving the interpretation, application, or alleged violations of a specified provision of this Meet and Confer Agreement shall be subject to this dispute resolution procedure. Any matters for which the right of appeal is afforded by Subchapter D of Chapter 143 of the Texas Local Government Code are excepted from the scope of this article.

Section 2. Application of Procedure

If the Association has a dispute with the City regarding this Agreement, the Association should reduce the dispute to writing and deliver it to the City's designated representative, who shall be its Department head or designee.

A Firefighter or newly classified employee under Article 2 in the Department may not file a request for contract dispute resolution directly with the City; all resolution requests must be approved and come from the Association Grievance Committee. Each dispute shall be submitted on a form similar to the one attached as an exhibit to this Agreement, and must include, at minimum, the following information:

- (1) a brief statement of the dispute and the facts or events on which it is based;
- (2) the sections(s) of the Agreement alleged to have been violated;
- (3) the remedy or adjustment sought; and
- (4) the bargaining unit member's signature or, if filed by the Association, the signature of the Association Grievance Committee chairman or Association President.

Any claim or dispute by an employee or group of employees under this Agreement which includes a claim for pay or benefits for any past pay periods must be filed by the employee with the Association within thirty (30) days of the date when the employee knew or reasonably should have known of the claim.

Disputes by the Association, Firefighter, or a newly classified employee under Article 2 shall proceed along the following steps:

Step 1. An aggrieved Firefighter or newly classified employee under Article 2 must initiate a dispute with the Association Grievance Committee within thirty (30) calendar days of the date upon which the Firefighter or newly classified employee knew of or should have known of the facts giving rise to the dispute. A copy of notice or receipt of the dispute shall be forwarded to the Department head by the Association Grievance Committee within (3) business days of the receipt of the dispute. The Association Grievance Committee shall within their sole discretion determine if a dispute exists. If the Association Grievance Committee determines that no dispute exists, it shall notify the Department head in writing that no further proceedings will be necessary. If the Association Grievance Committee determines that the dispute is valid, it shall within fifteen (15) business days after receipt of the dispute, proceed to Step 2 of the procedure.

Step 2. Any dispute found to be valid by the Association Grievance Committee shall be submitted to the Department head within five (5) business days of the Step 1 decision. After receipt of the dispute, the Department head shall within thirty (30) days submit his response in writing to the Association Grievance Committee.

The Department head may require by policy for submission of contract disputes within the Chain of command, but shall have a duty to determine the matter within thirty (30) days of its receipt from the Association.

Step 3. If the dispute is not resolved in Step 2, the Association Grievance Committee may advance the dispute in writing to the City Manager or designee within ten (10) business days from receipt of the Step 2 decision by the Department head. The City Manager or designated representative shall review the matter and render a decision in writing to the Association Grievance Committee within ten (10) business days of the receipt of the dispute. The City Manager or designee may, at his or her discretion, conduct a conference to further explore the merits of the dispute and to explore resolution options.

Step 4. If the dispute is not resolved in either Step 3, either Party shall have the right to seek mediation of the dispute by requesting same in writing within ten (10) business days. The mediation will proceed before either a mediator with the Federal Mediation and Conciliation Service or before a mutually agreed mediator. The mediation shall be held in available facilities of the City of Denton.

Step 5. If the dispute is not resolved at Step 4, the Association shall have ten (10) business days from the date of mediation to determine whether it will pursue the dispute under this article through arbitration. Under this step, the Association must deliver a letter indicating its selection for arbitration to the Department head.

Section 3. Arbitration Option

The Parties have agreed that all disputes under this Agreement, which concern the application and interpretation of this Agreement, shall be submitted to final and binding arbitration, and the Parties except from this Agreement disputes involving statutory application and interpretation for rights and claims not arising under sections 142 or 143 of the Texas Local Government Code. The terms of the Agreement, and any factual issues which are determinative in applying the Agreement, shall be the sole province of the designated arbitrator, and his or her decision shall be final. However, the City has only been willing to agree to arbitration on the condition that legal issues which are determinative in any contract dispute are subject to judicial review. This additional exception to the Parties' arbitration Agreement is a narrow one, as reflected by the bargaining history. This contract represents an agreement to submit disputes to arbitration within its scope, and otherwise preserves the existing jurisdiction of Texas Courts over any contract rights and claims not exclusively committed to arbitration. The Parties have agreed that questions of law, which involve either the interpretation and application of state statutes or the application of legal principles from Texas appellate court opinions (or the failure to properly apply such legal principles or opinions) to controversies under this article shall be submitted initially to arbitration, but that either party shall have a limited right of appeal from an arbitration award in the Courts solely for the purpose of reviewing disputed issues of law. No such appeal from arbitration shall include review of any factual determinations by the arbitrator, including credibility of witnesses or weight of the evidence. If an appeal from arbitration based on erroneous application of the law is not successful, the appealing Party shall bear all costs of such appeal.

If a dispute is submitted to arbitration, within seven (7) calendar days, the Department head and/or City and the Association shall select an arbitrator by alternately striking names from the Parties' pre-determined panel of six (6) qualified neutral arbitrators. The Association shall strike the first name under this article with the first dispute brought under this article. Thereafter, the first strike shall alternate between the Parties. The panel list is attached as Exhibit "A" to this Agreement. Should any panel member subsequently refuse or be unable to continue to serve on the panel, the Parties may mutually agree to his replacement from a mutually accepted list of three arbitrators. In the event the parties cannot mutually agree to a replacement, the remaining members of the panel will continue to serve for the duration of the Agreement.

The arbitration should be held at the earliest available date, but may be continued for good cause shown or upon mutual agreement.

The hearing shall be held in available facilities of the City of Denton and shall be conducted informally, without strict evidentiary or procedural rules. The conduct of the hearing shall be governed by the standard rules of the American Arbitration Association.

The arbitrator shall consider and decide only the issue(s) in the dispute statement or submitted in writing by agreement of the Parties. The hearing shall be concluded as

expeditiously as possible and the arbitrator's written decision shall be based on a preponderance of evidence within thirty (30) days after close of the hearing.

Section 4. Decision Final and Binding

If arbitration is selected, the Parties specifically agree that the arbitrator's authority shall be strictly limited to interpreting and applying the explicit provisions of this Agreement. The arbitrator shall not have authority to modify the Agreement or create additional provisions not included in the Agreement. The Parties agree that neither the City nor the Association shall have *ex parte* communications with the arbitrator concerning any matter involved in the dispute submitted to the arbitrator. Each Party shall be responsible for its own expenses in preparing for and representing itself at arbitration, but the fees of the arbitrator shall be borne equally by the Parties. The written decision of the arbitrator shall be final and binding on both Parties and may not be appealed by either Party, except for any decision procured by fraud or collusion, or which exceeds the arbitrator's jurisdiction or which is based on legal conclusions or interpretations which are clearly contract to existing law.

Section 5. Mutual Extension

All deadlines within this article may be extended by mutual agreement by the Parties.

Section 6. Grievances of Non-Association Members

Grievances of Non-Association members must follow the same procedure outlined by this article. However, should the grievance of a Non-Association member require that Association resources be used, the Non-Association member will be required to pay all expenses incurred while pursuing final disposition of their grievance. These shall include cost for payment of Arbitrator fees, counsel fees and any other fees directly related to the grievance. All disciplinary grievances shall follow procedure as outlined in chapter 143 of Local government Code. Notwithstanding the above any non-Association member may unilaterally utilize the appeal procedures for disciplinary actions as provided under such Chapter 143.

ARTICLE 14
TERM OF AGREEMENT

This Agreement shall have an effective date of October 1, 2006, and shall remain in full force and effect through September 30, 2009, and may be mutually extended by both Parties.

ARTICLE 15
SAVINGS CLAUSE, PREEMPTION PROVISION, AND COMPLETE
AGREEMENT CLAUSE

Section 1. Savings Clause

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

Section 2. Preemption Provision

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

Section 3. Complete Agreement Clause

The Parties agree that each has had full and unrestricted right and opportunity to make, advance and discuss all matters properly within the meet and confer process. This Agreement constitutes the full and complete Agreement of the Parties and there are no others, oral or written, except as specified in this Agreement. However, to the extent it may be shown to be necessary to go outside the four corners of the Agreement, the Negotiation History Document drafted by the Pay Subcommittee may be utilized to show the intent of the Parties.

SIGNATURE & EXECUTION PAGE

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

THE CITY OF DENTON, TEXAS

(Approved by Denton City Council on ____ of _____, 2006)

By: _____ Dated: _____
HOWARD MARTIN
INTERIM CITY MANAGER

APPROVED:

APPROVED AS TO FORM:

ROSS CHADWICK
FIRE CHIEF

JERRY DRAKE
DEPUTY CITY ATTORNEY

THE DENTON FIRE FIGHTERS ASSOCIATION, LOCAL 1291

(Ratified by DFFA Membership on ___ of _____, 2006).

By: _____
MIKE TUCKER
PRESIDENT

By: _____ Dated: _____
JASON S. BALLARD
SECRETARY

EXHIBIT A

PANEL OF ARBITRATORS

Norman Bennett
Otis King
Francis Quinn
Bill Detwiler
Donald Goodman
John Barnard