



AGREEMENT

EVESHAM FIRE DISTRICT # 1

AND

EVESHAM FIRE OFFICERS
FMBA LOCAL 115

2006 – 2010

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PREAMBLE

THIS AGREEMENT, entered into this _____ day of _____, by and between the Board of Fire Commissioners of the Evesham Township Fire District No. 1, in the County of Burlington, State of New Jersey, a body corporate and politic of the State of New Jersey (hereinafter called the "Board"), and the Evesham Fire Officers FMBA Local 115 (hereinafter called the "Officers Association" and the members thereof being referred to as "Officers"), represents the complete and final understanding on all issues between the Board and the Officers that are subject to such negotiations and agreements permitted by the laws of the State of New Jersey and set forth within the meaning of the New Jersey Employer-Employee Relations Act, N.J.A.C. 34:13A – 1.1 et. seq.

This Agreement shall remain in effect during any negotiations and shall continue to remain in full force and effect until such time as a new Agreement is reached.

Article 1. RECOGNITION

- A. The Board hereby recognizes the Officers Association as the exclusive collective bargaining agent for all Officers at the ranks of Lieutenant, Captain, Battalion Chief and Deputy Chief who are full-time, paid Officers within the Evesham Fire Department (“Department”).
- B. This contract shall not cover persons who, by reason of their duties, are excluded by law from public employee collective bargaining.

Article 2. MAINTENANCE OF OPERATIONS

- A. It shall be the mutual objective of the Officers and the Board to provide for the uninterrupted fire protection and emergency medical services for the general public. The Officers agree that, during the term of this agreement, neither the Officers, nor anyone acting on their behalf will cause, authorize, support or take part in any strike, work stoppage, slowdown, walkout or other job action against the Board. The Officers agree that such action would constitute a material breach of this agreement. Participation in any of the above shall be deemed grounds for disciplinary action up to and including termination of employment. The Officers will actively discourage any strike, work stoppage, slowdown, walkout or other job action against the Board by Officers covered by this agreement.

Article 3. MANAGEMENT RIGHTS

- A. The Board retains and reserves unto itself, without limitations, all powers, rights, authority, duties and responsibilities conferred upon and vested in it prior to the signing of this agreement by the Laws and Constitution of the State of New Jersey and of the United States, including but not limited the generality of the foregoing, the following rights:
1. To manage and control administratively the Evesham Township Fire District No. 1(“District”) and its properties and facilities and the activities of its employees; and
 2. To hire all employees and, subject to the provision of the Law, to determine their qualifications and condition for continued employment or assignment and to promote and transfer employees; and
 3. To suspend, demote, discharge or take other disciplinary action for good and just cause according to law.
- B. The exercise of the foregoing powers, rights, authority, duties and responsibilities of the Board, the adoption of policies, rules, regulations and practices in furtherance thereof, and the use of judgment and discretion in connection therewith shall be limited only by specific and express terms of this agreement and then only to the extent such specific and express terms hereof are in conformance with the Constitution and Laws of New Jersey and of the United States.

Article 4.**OVERTIME AND SHIFT DIFFERENTIAL**

- A. Any Officer called in to work from off duty shall receive a minimum three (3) hours pay or compensatory time off at the discretion of the Officer. Time is paid at time and one-half and is regardless of actual time spent on duty.
- B. When an Officer works in excess of his/her normally scheduled shift he/she will be entitled to compensatory time off or paid compensation at the rate of time and one half the time so worked.
- C. Additional work will be offered to the on-duty shift on a revolving seniority basis whenever practical. When overtime requires unique skills, only those Officers with those skills will be offered the opportunity to work that time. It is the intent of this section to afford a reasonably even opportunity to participate in excess time to all Officers; however, off-duty Officers will be utilized when on-duty Officers request to be relieved.
- D. Shift Differential will be paid at the rate of seven percent (7%) for entire shifts worked outside the 0500-1800 weekday shift. Shift differential pay shall be added into the annual salary and paid bi-weekly.
- E. Supervisory Coverage: At any time three (3) or more employees are scheduled to work a supervisor will also be scheduled to provide adequate supervision. Firefighter/Acting Officers will only be appointed when there are no off-duty supervisors available for call in to duty.
- F. It is mutually agreed that it may be advantageous to the Board to have Officers respond to calls when not on duty. Such Officers are not required to respond except when recalled to duty. These voluntary responses will be treated as casual events for which compensatory time will be issued but may be treated as paid overtime at the discretion of the Officer.

Article 5. VACATION LEAVE

- A. Annual vacation leave with pay shall be earned at the rate as follows:
 - 1. 0-60 months 132 hours
 - 2. 61-120 months 165 hours
 - 3. 121 - 228 months 176 hours
 - 4. 229+ months 220 hours

- B. Upon retirement or termination accrued and unused vacation leave can be returned for payment at the Officer's current pay rate with a maximum of three hundred and fifty-two (352) hours

- C. Vacation leave may be carried over in an amount not to exceed the amount earned in one year. The Board may approve additional carry over when appropriate.

Article 6. HOLIDAY LEAVE

- A. The Board recognizes the following days as holidays during which Officers shall be scheduled off without loss of pay.
 - 1. New Year's Day
 - 2. Memorial Day
 - 3. Labor Day
 - 4. 4th of July
 - 5. Thanksgiving Day
 - 6. Christmas Day

- B. Effective January 1, 2007, the seven (7) remaining holidays will be paid holidays with no time off. Such payment shall be paid as an addition to the base salary and included in the bi-weekly payroll.

- C. For the purposes of this section, a holiday shall be the same as the normally scheduled day.

Article 7. PERSONAL LEAVE

- A. Effective January 1, 2007 the Board will provide each Officer with four (4) days of Personal leave each year. (44 hours)
- B. Personal leave time may be taken in one (1) hour increments.
- C. Personal days do not accrue from year to year and are not payable upon separation.

Article 8. BEREAVEMENT LEAVE

- A. A regular full-time Officer will be excused from work because of death in his/her "immediate family", as defined below. The Officer shall be paid his/her regular rate of pay for scheduled working hours missed during the four (4) working days following the death. Time off with pay as provided in this section shall be used for the purpose of handling necessary arrangements and attendance at the funeral of the deceased member of the immediate family.
 - 1. For the purpose of this Article, "immediate family" is defined as an Officer's parents, grandparents, spouse, children, brother, sister, ward, father-in-law, mother-in-law, sister-in-law and/or brother-in-law.
- B. One day of funeral leave shall be granted for the death of any Officer's niece, nephew, aunt, uncle or cousin or an Officer's spouse's niece, nephew, aunt, uncle or cousin or grandparents.
- C. Additional or special circumstance bereavement leave may be granted at the discretion of the Chief or his designee.

Article 9. SICK LEAVE

- A. All Officers shall earn one hundred thirty-two (132) hours of paid sick leave annually.
- B. Sick leave may be taken for personal illness, family illness or quarantine. For the purposes of this section, a sick day shall be the same as the normally scheduled day. Other employment during regularly scheduled hours while on sick leave may be subject to dismissal.
- C. Officers, with the Board's approval, may transfer unused sick leave to another employee within the department. The Board shall not unreasonably withhold such approval.

Article 10. LEAVE OF ABSENCE

- A. Leave of-absence without pay: The Chief with the Board's approval, may grant a request for leave of absence without pay for periods not to exceed one (1) year, when such leave is for a reasonable purpose; however, no seniority or benefits of any nature whatsoever shall accrue during said leave. Upon termination of leave of absence, the Board will reinstate the Officer in the capacity in which he/she left at the rate of pay at which he left. During that period of absence, the Officer shall not engage in gainful employment in any industry without the express written consent of the Board. Failure to comply with this provision shall result in termination of employment and forfeiture of all benefits. (Forfeiture of benefits by such employment shall not apply to an Officer desiring to attend school on a full-time basis).

Article 11. INJURY IN THE LINE OF DUTY

- A. Purpose: The parties desire to provide some measure of security for Officers injured in the line of duty while foreclosing unlimited liability on the part of the Board to pay salary benefits. In line with this objective, the parties have negotiated this clause which fairly balances both concerns.
- B. Provision: The parties agree to be conclusively bound by the determination of the Board's workers compensation insurance carrier or the Workers' Compensation Court (in a contested matter) with respect to whether an injury occurred while "in the course of employment" pursuant to N.J.S. 34:15-1 et sea. or "in the line of duty"; and, for the purposes of this section, those terms shall be identical.
- C. Board's Duty to Supplement Pay: While any Officer is prevented from performing the duties of his/her work by reason of an injury in the line of duty and is receiving temporary workers compensation benefits, such Officer shall also receive supplemental payments by the Board equal to the difference between such benefits and the Officer's regular rate of pay. Once begun, the Board's duty to sustain an Officer at this regular pay shall continue until terminated as hereinafter set forth.
 - 1. Termination of Board's Duty to Supplement Pay: The Board's duty to supplement an Officer's workers compensation benefits or sustain an Officer at regular pay shall terminate as a result of any of the following events:
 - a) Upon the Officer's return to work.
 - b) If an Officer's temporary workers compensation benefits are terminated and the Officer refuses or maintains he/she is unable to return to work, the Board's duty to supplement pay may be terminated only after the Board's physician or his designee (who shall also be a licensed physician) conducts a hearing to determine the Officer's fitness to return to work at which time the hearer shall give great weight to medical evidence presented. If the hearer determines the Officer is fit to return to work, the Board's duty to supplement pay as aforesaid shall terminate. If the hearer determines that the Officer is not fit to return to active fire work, notice of such determination shall be formally served by mail upon the Officer (and if represented, his attorney) whereupon the Board's duty to supplement pay shall terminate within five (5) days except as prohibited in the following paragraph.

- c) The determination of the hearer shall be conclusive and both parties agree that no right of appeal shall exist from such determination.
- d) If the Officer or the Board files an application for disability pension by reason of the Officer's inability to return to active duty, the Board shall continue to supplement pay or sustain an Officer at his regular pay until such application is determined or four (4) months following such application, whichever event first occurs.

Article 12. HEALTH AND WELFARE

- A. The Board shall provide each Officer and his/her family, at no cost to the Officer, the same level of benefits and coverage provided by the Township of Evesham to the members of the Police Department at the effective date of this contract including:
 - 1. Medical Insurance
 - 2. Prescription Insurance
 - 3. Dental Insurance
 - 4. Group Life Insurance
- B. In the event the coverage changes and the level of benefits provided by the Township of Evesham changes, or the Board determines to provide coverage through a different carrier, there shall be no decrease in coverage or benefits to any Officer or his/her family. In the event of a decrease in coverage or benefits as a result of such change, and the Officer or his family suffers an adverse change in coverage, the Board shall make prompt payment to the Officer in the amount of the difference between the then current coverage and the new coverage.
- C. For those who wish to option out of healthcare benefits, compensation equal to 50% of the premium cost shall be paid to the Officer by lump sum payment in December of the year for which coverage was waived for. The waiver must be completed in accordance with the Board's Waiver Agreement.
- D. The following prescription co-pays shall apply:
 - 1. Co-pays shall be \$5.00 for generic drugs and \$10.00 for brand name drugs.
- E. In the event an Officer is injured while on duty, the Board shall reimburse the Officer upon request at the difference between the amount of medical expenses actually incurred and the amount provided by medical insurance.

Article 13. SALARIES

- A. The attached Salary Guides (Appendix A-1 through A-5) are hereby made part of this agreement effective January 1, 2006 until December 31, 2010.
- B. Residential Stipend: Each Officer that resides within the Township of Evesham shall be entitled to residential stipend payments of one percent (1%) of their annual salary each year. Such payments will be made the first pay period in December.
- C. Officers shall be paid longevity payments in accordance with the following schedule. Longevity shall be incorporated into the Officer's salary as outlined in the attached salary guides.
 - 1. 96 months of employment or more 3.5%
 - 2. 156 months of employment or more 4.5%
 - 3. 216 months of employment or more 5.5%
 - 4. 276 months of employment or more 6.75%

* Longevity is based upon the Officers hire date.

Article 14. TRAINING and EDUCATION

- A. The Board, upon the prior approval of the Chief, will pay the tuition and book expenses of any Officer furthering his/her education by taking courses or enrolling in a degree program in an emergency services related field. Emergency services courses are defined as college-level courses directly associated with a degree program in emergency services at an accredited college.
- B. The maximum amount to be paid under this plan is \$6000 per calendar year per Officer with a total cap of \$18,000 for all Officers per calendar year. Provisions of this article may also be applied towards Officer professional development.
- C. The Board will only provide payment for tuition and books, which in conjunction with financial aid or compensation received from other sources, will defray tuition and book expenses. The Board will not, in conjunction with financial aid and compensation received from other sources, provide compensation when such combined payments exceed actual tuition and book expenses.

- D. In order to receive education assistance as provided in paragraph (A) and (B), it shall be necessary for an Officer to submit appropriate cost estimates, application for tuition payment form, and if requested, evidence of attendance to the Chief.
- E. The Board shall make every attempt to provide continuing education necessary for obtaining and maintenance of licenses and certifications for the Uniform Fire Safety Act, Uniform Construction Code, Emergency Medical Technician, Fire Instructor, and such others as may be required to function as an Officer of the Department. It shall be the Officer's responsibility to maintain all licenses and certifications.
- F. Additionally, any coursework, certifications or licensure in the fire, emergency services, fire investigation, fire prevention, fire sub-code or fire/EMS instructor fields that would be beneficial to the Department and/or prepare or qualify an Officer for advancement to a higher rank will be paid for by the Board. Training covered under this section shall be subject to approval by the Chief or his designee. Payment for coursework may be incorporated within section B above.

Article 15. PAYMENT AT HIGHER RANK

Any Officer assigned to a higher rank or performing the duties of a higher rank, as appointed by the Chief or his designee, shall be compensated at a rate of \$50 per shift. If that Officer performs at a higher rank for a period of thirty (30) days or greater that Officer will be compensated at the higher ranking Officer's rate until such time as that Officer is reassigned to his previous duties.

Acting Down -

1. When the firefighter over-time list is exhausted, an off duty company Officer may be called to fill a firefighter vacancy.
2. A Chief Officer may be used to back-fill company Officer vacancies only after there are no Lieutenants or Captains available for over-time call-in.

Article 16. GRIEVANCE PROCEDURE

- A. Grievances shall be instituted at the lowest possible level to secure equitable relief or solutions to grievances or complaints by an Officer. The following procedure shall generally apply to the grievant.
1. First, discuss the matter with his/her immediate supervisor.
 2. Second, if necessary, discuss the matter with the Deputy Chief of the Division.
 3. Third, if necessary, discuss the matter with the Chief or his designee.
 4. Fourth, if necessary, discuss the matter with the Board.
- B. The Board's decision shall be final except for matters submitted to arbitration in accordance with section F. hereof.
- C. Definitions.
1. Grievance: Any controversy arising over the interpretation, application, or violation of policies, agreements and administrative decisions affecting the terms and conditions of Officers covered under this agreement which may be raised by an individual, the Officers, at the request and on behalf of an individual or group of individuals, or the Board.
 2. Grievance Committee: For the purpose of this agreement, "grievance committee" shall mean that group of Officers duly appointed by the Officers to review the Officer's grievance(s).
 3. Division Head: For the purpose of this agreement, "Division Head" shall mean the Deputy Chief in charge of the Division (i.e. Operations or Fire Prevention) that the Officer is assigned to at the time of filing the grievance.
 4. Department Head: For the purpose of this agreement, "Department Head" shall mean the Chief or his designee.
- D. Determination by Department
1. Referral to the Deputy Chief of the Division: If the grievance is not settled by the immediate supervisor to the Officer's satisfaction within two (2) calendar days and such grievance concerns the interpretation, application, or alleged violation of this contract only, the aggrieved party may make written request within five (5) calendar days thereafter (Deputy Chief of the Division to which the Officer is assigned) for review.
 2. Referral to the Department Head: If the grievance is not settled by the Division Head to the Officer's satisfaction within five (5) calendar days and such grievance concerns the interpretation, application, or alleged violation

of this contract only, the aggrieved party may make written request to the Department Head for review.

3. Decision by Department Head: The Department Head shall render a written decision clearly setting forth his decision and the basis for said decision within five (5) calendar days of receipt of the complaint to both the Officers and the complainant.

E. Determination by Board of Fire Commissioners

1. Appeal to Board: In the event the aggrieved party is not satisfied with the determination by the Department Head, the complainant or the Officers may serve a copy of the original complaint upon the Board of Fire Commissioners within five (5) days of the decision of the Department Head.
2. Decision by the Board: The Board of Fire Commissioners shall render a written copy of their decision to both the Officers and the complainant within (10) ten business days of receipt of the complaint.

F. Determination by Arbitration

1. Request for Arbitration: In the event the aggrieved party is not satisfied with the determination of the Board, or in the opinion of the Officers, the grievance is meritorious, then the aggrieved party or the Officers may request arbitration within ten (10) calendar days of receipt of the Boards determined action through the Offices of the Public Employee's Relations Commission.
2. Choice of Arbitrator: Upon receipt of the list of arbitrators from the Public Employee's Relations Commission, the Officers and the Board shall mutually agree on the selection of an arbitrator.
3. Cost of Arbitration
 - a) In the event the aggrieved party is a member of the Officers Association at the time of the occurrence of the action complained of, the costs of the arbitration shall be shared equally by the Board and the Officers.
 - b) In the event the aggrieved party is not a member of the Officers Association at the time of the occurrence of the action complained of, then the Officers shall bear no responsibility for arbitration cost and the grieving shall pay half the costs.
 - c) Any other expenses incurred by the parties shall be the respective party's responsibility.

- d) In the event the arbitrator should determine a party to have prosecuted a claim so clearly lacking any merit or sufficiency so as to be deemed frivolous, the arbitrator may in his sole discretion assess reasonable counsel fees to costs upon said party.

4. Effect of Arbitration:

- a) The decision of the arbitrator shall be binding upon both parties.
- b) Such decision of the arbitrator shall be rendered within 30 days of the hearing.

Article 17. MISCELLANEOUS

- A. It is agreed that there will be an equipment/clothing maintenance allowance of three hundred (\$300.00) dollars paid annually. This allowance shall be paid in a lump sum payment in the pay period immediately after July 1st of each year.

Article 18. SCHEDULE

- A. Scheduling will be done on a twenty-eight (28) day cycle while payroll will be processed on a bi-weekly basis. The hours worked by Officers may not exceed two-hundred twelve (212) hours in a twenty-eight (28) day duty schedule. The daily work period may be varied to meet the needs of the various job assignments within the department. It is agreed that there will be a total of at least one (1) hour and fifteen (15) minutes per day provided for meal and break purposes. It is the intent of this section that the regular schedule be one hundred sixty to one hundred seventy-six (160-176) hours, depending on the assigned shift of forty (40), forty-two (42), or forty-four (44) hours, during each twenty-eight day (28) period.
- B. All Officers may exchange work hours of equal amounts between each other in any 28-day work cycle. This provision allows Officers to work five (5) days one week and three (3) days another week with the other Officer completing the switch. Completing the switch within the 28-day work cycle meets all FLSA guidelines for firefighter work schedules.
 - 1. The request for exchange of hours of duty by an Officer with another Officer may be granted by the Chief or his designee provided such request has been made through proper channels and is made in compliance with district policies.

2. Exchanges of duty hours shall not be authorized should the request cause an over-time situation.

Article 19. LEGAL DEFENSE

- A. Any Officer who is a defendant in any action or legal proceeding arising out of or incidental to the performance of his duties shall be entitled to full legal representation as appointed by the Board. The Board shall not pay legal fees for any Officer who is found guilty of an indictable offense.

Article 20. MEAL ALLOWANCE

- A. When presented with the appropriate vouchers and receipts, the Board agrees to reimburse Officers, up to \$42.00 per day, for meals associated with schools, conferences, seminars, or department business related activities.

Article 21. AGENCY SHOP CLAUSE

- A. All Officers who may be listed by the Officers Association as eligible for membership, but are not actual members of the Association, may directly benefit from any or all of the terms of this Agreement and, therefore, shall be responsible for the payment of fees to the Officers Association. Such Officers are covered by the Agency Shop Clause, N.J.S.A. 34:13A-5.5, Chapter 77, PL of 1979. The Board shall be responsible for collecting agency fees from these Officers. The Officers Association shall advise the Board in writing of the amount due from each such Officer, which shall not exceed eighty-five percent (85%) of regular Officers Association membership dues, fees and assessments normally paid by members.

Article 22. UNION BUSINESS CLAUSE

- A. The Board agrees to grant, if necessary, the required time off without loss of pay to the President and Executive Delegate or Alternate of the Officers Association to attend regular and/or executive meetings of the State and Southern District FMBA, provided each of them first gives reasonable notice (not less than 48 hours) to the Chief or his designee. Officers shall be granted time only if his/her absence will not result in over-time to fill his/her assignment. Union release time for these meetings shall not exceed one meeting per month.

Article 23. MILEAGE REIMBURSEMENT

- A. The Board shall reimburse Officers at the prevailing IRS rate for mileage outside of the Township of Evesham affiliated with District business as directed and approved by the Chief or his designee.

Article 24. LIGHT DUTY

- A. The light duty policy as in (SOP 101.27, May 1999 edition) shall be incorporated herein by reference, as amended.

Article 25. UNIFORM MAINTENANCE

- A. Officers shall be permitted to utilize the washing machine for the purpose of washing duty uniforms subject to availability and the established policy (established February 27, 2002) incorporated herein by reference.

Article 26. SENIORITY

- A. Seniority of Officers shall be determined by the Officer's date of promotion. For Officers promoted on the same date, seniority between those Officers shall be based upon hire date.

Article 27. JURY DUTY

- A. Officers shall be excused from duty with no loss of pay to participate as a juror. If an Officer serves jury duty on a regularly scheduled work day, he/she shall receive his/her rate of pay for that day. If the Officer is not needed he/she shall report to work. If the Officer is held for more than half his/her shift, he/she shall not be required to report back to work for that shift.
- B. Any payment received by the Officer from a third party as compensation for the performance of jury duty shall be turned over to the Board.

Article 28. HEALTH AND SAFETY

- A. The safety committee shall have bi-monthly meetings, more often as needed, during work hours to discuss all safety issues in the workplace and reach

resolutions acceptable to the Board and the Officers Association. The committee may also convene a meeting to handle emergent safety conditions as the need arises. An equal number of representatives from the Officers Association shall be members of the committee as decided by the Officers.

Article 29. FIRE INVESTIGATION DUTY

- A. It is recognized that from time to time it is necessary for the Deputy Chief of the Division of Fire Prevention (hereinafter known as the “Fire Marshal”) to designate a qualified Officer to be available during non-business hours (between the hours of 6:00 PM to 7:00 AM, Monday through Friday; all day on Saturday and Sunday; and, on non-working holidays) for the purpose of conducting fire investigations and the performance of any needed code enforcement activities, on an “on-call” basis. This assignment is commonly referred to as the “Duty Fire Marshal” and such assignments consist of a one-week (seven consecutive days, starting at 8:00 AM on Monday and running continuously through to 8:00 AM on the following Monday) tour of duty. The Officer designated for this assignment must be available and respond to any request for the services required by the Fire Marshal.
- B. Assignment as Duty Fire Marshal – The Board shall periodically, but not less than annually, solicit applications from Officers interested in serving as a Duty Fire Marshal. The Fire Marshal shall have sole discretion to determine those individuals who are eligible and qualified to serve as Duty Fire Marshals and shall make such assignments. (Qualified members of the Division of Fire Prevention will be selected first.)
- C. In the event that the number of voluntary participants does become less than four (4), the Board shall as soon as practicable, initiate the process of soliciting and selecting additional career firefighters and Officers who are willing to serve as Duty Fire Marshal on a voluntary basis.
- D. Compensation – For each week of Duty Fire Marshal service performed, the Officer shall be paid \$250.00 in addition to his/her regular rate of pay. Such sum is to be paid with the next regular paycheck. Officers assigned to the Fire Prevention Division and participating in the investigator program shall be assigned a vehicle which may be taken to and from work/home as assigned by the division head. If the Duty Fire Marshal is called out for duty and responds to an incident during this one-week period of duty, he/she shall be paid for a minimum of three hours at his/her applicable overtime rate of pay for each such occurrence.

Article 30. OPTION TO SELL BACK TIME

- A. The Board will, upon an Officer's request in writing "buy back" or purchase up to 80 hours in 2006, and 88 hours thereafter of accrued leave (vacation, personal, sick and/or compensatory time) which shall relieve the Officer of his right to exercise such leave in consideration of the payment. Such payments will be made, at the Officer's request, the first pay period in December. Payments under this section may be made in the form of a separate check during the first pay period in December.

Article 31. RETIREMENT / TERMINATION OF EMPLOYMENT

- A. Upon retirement, each Officer may, at his own expense, continue participation in the insurance program at the prevailing group rates.
- B. Officers retiring or resigning will be compensated fifty (50%) percent of their accrued sick leave up to five hundred and twenty-eight (528) hours (half of 1056). Officers terminating employment as a result of disciplinary action shall not be entitled to compensation associated with sick leave accumulated in the current calendar year, however, said Officers will be entitled to compensation associated with sick leave accumulated prior to January of the year of termination.
- C. Upon retirement or termination accrued and unused vacation leave can be returned for payment at the Officer's current pay rate with a maximum of three hundred and fifty-two (352) hours.
- D. Upon retirement Officers shall receive their firefighting helmet, badge, and class "A" uniform. Officers shall also be issued a department ID card with their last rank held and identified as retired (Captain (ret.)).

Article 32. TITLES

- A. All Officers shall be enrolled, if eligible, and entitled to all those benefits as outlined in New Jersey Police and Firefighters Retirement System (NJ-PFRS). All titles and job functions shall be consistent with those listed for eligibility in the NJ-PFRS.

Article 33. PHYSICAL FITNESS

- A. Officers shall be provided one hour per day for physical fitness activities. Officers are encouraged to participate in their own program on holidays and other off duty periods.

Article 34. COMPENSATORY TIME

- A. Officers may only accrue compensatory time to amounts agreed to in the clause – Option to Sell Back Time.

Article 35. DRUG AND ALCOHOL POLICY

- A. EDUCATION: The Board shall implement and use an education program, which addresses substance abuse related issues. The educational program shall be scheduled at sufficient intervals to ensure that not only are the goals of the negotiated policy met, but that all Officers become familiar with the issues, problems and current trends of thought concerning contemporary substance abuse.
- B. STANDARD FOR TESTING: The Chief or his designee based upon individualized and particular suspicion may require that an Officer submit to substance screening by urinalysis, which shall be administered by a competent testing laboratory. Such testing laboratory is to be a member of the National Institute for Drug Abuse. “Individualized and particular suspicion” is a belief based upon objective and identifiable facts sufficient to lead a prudent member to suspect that an employee is using, in possession or control of, or is under the influence of drugs or alcohol while on duty; and such conclusion cannot be imputed to any employee merely because of his/her association with another employee who is believed to be in use, possession or control of or the under the influence of drugs or alcohol while on duty. Examples include, but are not limited to the following:
 - 1. Direct observation of drug/alcohol use while on duty;
 - 2. Officers found to be in possession of alcohol/drugs while on duty;
 - 3. Spontaneously unusual, abnormal, erratic, or unacceptable behavior, or behavior which otherwise indicates that the Officer is under the influence of an intoxicating substance (e.g., the presence of bloodshot eyes, glassy eyes, slurred speech, lack of coordination, or other indications of intoxication or substance abuse);
 - 4. Documented pattern of unusual, erratic or unacceptable behavior;

5. A major on-duty accident with or without injuries; and

6. Reporting for work unfit for duty.

C. **RANDOM DRUG TESTING:** The Board shall not administer random drug and/or alcohol testing, which term is defined as compulsory testing prompted for reasons other than individualized and particular suspicion discussed above, except in the following instances:

1. A drug/alcohol test shall be conducted as a component of pre-employment physical. The presence of illegal drugs shall constitute a basis for the applicant to be bypassed.

2. Officers seeking reinstatement to the Department, after resignation or termination, shall be subject to testing as a condition of re-employment.

3. Officers on leave of absence for thirty (30) days or more may be tested upon his/her return to duty. This provision excludes those members whose placement on leave of absence was prompted by illness or injury not otherwise associated to alcohol and/or drug abuse.

4. An Officer may also be tested as part of a random testing program instituted as a result of prior drug and/or alcohol related disciplinary proceedings for a period not to exceed one (1) year.

D. **MASS DRUG TESTING:** The Board shall not administer mass drug and/or alcohol testing, which term is defined as compulsory testing of all Officers without affording the Officers Association thirty (30) days advance notice which shall be in writing effective the date received by the Officers Association. Such testing must be administered in context with comprehensive physical examinations given to all Officers. Mass testing for drug and/or alcohol abuse alone shall not be permitted.

1. Officers promoted to the next higher rank shall submit and pass a drug screen prior to being promoted.

E. **PROCEDURE:**

1. **GENERAL PROVISIONS.** It is the responsibility of Deputy Chiefs to see that all Officers under their direct command are fit for duty. If at any time they develop an individualized and particular suspicion that someone in their command is under the influence of drugs and/or alcohol, he/she shall:

a. Temporarily relieve (with pay) the suspected Officer of all duties pending the outcome of further investigation

- b. Immediately contact the next higher rank and inform him/her of his/her action and suspicions. That rank shall respond to the location of the suspected Officer and begin his/her own evaluation.
- c. If at the end of the second evaluation it is determined that an individualized and particular suspicion exists, or if either Officer is not in agreement with the other, the Assistant Chief shall be notified and he shall continue the investigation. The Deputy Chief and Assistant Chief must agree that an individualized and particular suspicion exists in order for an Officer to be tested.
- d. The Chief, or his designee in his absence, shall be notified prior to any testing of the suspected employee. If he cannot be reached, the authority rests with the Assistant Chief.
- e. After all steps outlined above have been satisfied, the suspected employee shall be transported to the Board's healthcare provider for testing.
- f. That Officer shall be relieved from duty (with pay) for the remainder of the workday. He/she shall call someone to come pick him/her up at the conclusion of the test.
- g. If an Officer tests positive he/she shall not be paid for the workday.
- h. The Deputy Chief and/or Assistant Chief involved in the decision making process aforesaid, whether they concurred or dissented from the conclusion that an Officer exhibited individualized and particular suspicion warranting drug and/or alcohol testing, shall write the specific facts, observed symptoms, and/or other basis which prompted their respective conclusions.
- i. If the results of the test are negative, no record of this incident shall be made part of the Officer's file or used as evidence of a prior incident, if that employee tests positive at a later date. The same applies if two chief Officers cannot agree that an individualized and particular suspicion exists and no test is given.

2. EMPLOYEE ASSISTANCE PROGRAM. The Board, working in cooperation with the Association, shall maintain an Employee Assistance Program (hereinafter "E.A.P."), which is for the benefit of all Officers. Voluntary participation, which is participation because an Officer believes he/she may benefit by attending programs of the E.A.P., is confidential and is at the option of the employee. The Assistant Chief shall act as a liaison for the Department personnel in conjunction with the E.A.P.

3. POSITIVE TEST RESULTS: The following defines the procedure and consequences to be followed by the Board when particular suspicion is concluded warranting drug and/or alcohol testing.

a. Testing Procedure at Board's Healthcare Provider. The Officer, having met the conditions of individualized and particular suspicion, shall be transported to the Board's healthcare provider for testing. There, someone from the medical staff shall direct the Officer in providing a urine sample, and this staff representative shall be responsible for insuring chain of custody involving the provided sample. An Officer may, and should see that a second sample is given and stored in case he/she wishes to appeal the finding the first test. A screening test shall be conducted to determine the presence of drugs and/or alcohol. If such test is positive, a confirmation test shall be performed to identify the exact test results. The Officer may, at his/her own expense, request the second sample be sent to an independent laboratory for testing. The results of that test shall be his/her basis for appealing the results of the first test. The Officer shall have complete and sole discretion as to the selection of the second/independent laboratory provided, however, same is a member of the National Institute for Drug Abuse. The result of the employee's second/independent test shall be provided to both the employee and the Department. No unconfirmed positive tests, or records pertaining to same, shall be released or retained by the laboratory.

b. Consequence of Positive Test Results. Should the test results prove positive, and the Officer has never attended (either on a voluntary or involuntary basis) an in-patient drug rehabilitation program, the Officer shall be afforded opportunity to enroll in a Board approved program. Should the Officer successfully complete the in-patient rehabilitative program offered, he/she shall be returned to full duty and regular assignment. The Officer shall, however be referred to the E.A.P. coordinator, for a period not exceeding one (1) year, and comply with such directives as may reasonably be prescribed by the E.A.P. coordinator. During this one-year period following release from the in-patient rehabilitation program, the Officer shall be subjected to periodic and unannounced testing. If after successfully completing an in-patient rehabilitative program and the Officer again tests positive for drugs/alcohol, he/she shall be deemed as being beyond rehabilitation posing a threat to the health and safety of other Department members. The Officers Association recognizes that, consistent with judicial and administrative decision, the Officer may be terminated from service with the Department by the Board.

4. REHABILITATIVE ABSENCE. Officers who shall benefit from treatment on an in-patient basis in a rehabilitative substance abuse program shall be entitled to be carried as sick without loss of pay for a maximum of thirty (30) days, provided the Officer agrees to and signs the substance abuse agreement, and provided the Officer has 30 days sick time.

5. ALCOHOL TESTING. A breathalyzer or similar testing equipment shall be used to screen for alcohol use and if positive, shall be confirmed by a blood alcohol test performed by the laboratory. This screening test shall be performed by an individual qualified through and utilizing equipment certified by the New Jersey State Police. An initial positive alcohol level shall be .10 grams per 210 L. of breath. If initial testing results are negative, testing shall be discontinued, all samples destroyed, and records of the testing expunged from the employee's file. Only specimens identified as positive on the initial test shall be confirmed using blood alcohol level. The same sampling procedures as utilized in motor vehicle testing shall be followed. A positive blood alcohol level shall be .10 grams per 100 ml of blood. If confirmatory testing results are negative, all samples shall be destroyed and records of the testing expunged from the employee's file.

6. DRUG TESTING. The laboratory shall test for only the substances and within the limits for the initial and confirmation tests as provided within the limits for the initial and confirmation tests as provided within standards established by the National Institute of Drug Abuse. The initial test shall use an immunoassay which meets the requirements of the Food and Drug Administration for commercial distribution. The following initial cut-off level shall be used when screening specimens to determine whether they are negative for these five (5) drugs or classes of drugs:

Marijuana Metabolites 100 mg/ml

Cocaine Metabolites 300 mg/ml

Opiate Metabolites 300 mg/ml^[1]

Phencyclidine 25 mg/ml

Amphetamines 1000 mg/ml

If initial testing results are negative, testing shall be discontinued, all samples destroyed and records of the testing expunged from the Officer's file. Only specimens identified as positive on the initial test shall be confirmed using gas chromatography/mass spectrometry (GC/M.S.) techniques at the following listed cut-off values.

Marijuana Metabolites^[2] 150 mg/ml

Cocaine Metabolites^[3] 300 mg/ml

Opiate
Morphine 300 mg/ml
Codeine 300 mg/ml
Phencyclidine 25 mg/ml
Amphetamines
Amphetamine 500 mg/ml
Methamphetamine 500 mg/ml

If confirmatory testing results are negative, all samples shall be destroyed and records of the testing expunged from the employee's file.

- [1] If immunoassay is specific for free morphine, the initial true level is 25 mg/ml.
- [2] Delta – 9 Tetrahydrocannabinol – carboxylic acid.
- [3] Benzoyl ecgonine.

7. TESTING PROGRAM COSTS. The Board shall pay for all costs involving drug and alcohol testing. The Board shall also reimburse each Officer for his or her time and expenses, including travel, incurred involved in the testing procedure.

The Department shall provide transportation to and from the testing procedure.

8. EFFECTIVE DATE AND APPLICATION OF AGREEMENT. The procedures and understandings incorporated within the contractual agreement shall become effective immediately upon acceptance by the Board and Officers Association as memorialized by the parties affixing their signatures.

a. Past Records of Drug Involvement and/or Alcohol Abuse. With the exception of those Officers who already have signed “Last Chance Agreements,” no involvement with drug rehabilitation clinics or positive testing results occurring prior to the effective date of this contractual Agreement shall be referenced by the District in proceedings after the ratification of this Agreement, it being the intent of the parties to provide all Officers with clear records. This contractual provision shall not apply, however, to signatories of “Last Chance Agreements” who remain bound by the terms of such past disciplinary disposition.

b. Additional Provisions. The Board shall not implement any procedures, other than referenced herein, involving alcohol and/or drug testing, or the consequences thereof, except with the negotiated agreement of the Officers Association. Any Department rules/regulations implemented in accord with and/or expoundment upon this contractual Agreement shall be submitted to the Association for collaboration and approval prior to enforcement.

c. Effect of Agreement. This contractual Agreement supersedes all past practices and contractual agreements developed between the Board and Officers Association involving alcohol and/or drug testing.

d. Right of Appeal. The Officer has the right to challenge the results of the drug and/or alcohol tests, and any discipline imposed, in the same manner that any other employee action under the terms of the Agreement is appealable.

e. Association Held Harmless. The Board assumes sole responsibility for the administration of this policy and shall be solely liable for any legal obligations and costs arising out of the provisions and/or application of this contractual Agreement relating to drug and alcohol testing.

f. Changes in Testing Procedures. The parties recognize that during the life of this contractual Agreement, there may be improvements in the technology of testing procedures, which shall provide for more accurate testing. In that event, the parties shall bargain, in good faith, whether to amend this procedure to include such improvements, if the parties are unable to agree on the amendments, they shall be submitted to impasse procedures as outlined in the Grievance Procedure of the Agreement.

g. Conflict With Other Laws. This Agreement is in no way intended to supersede or waive any constitutional or statutory rights that the employee may be entitled to as developed and/or recognized by Federal Courts, State Courts or Administrative agencies.

Article 36. FULLY BARGAINED PROVISION

- A. This Agreement represents and incorporates the complete and final understanding and settlement by the parties on all bargainable issues, which were or could have been the subject of negotiations. During the term of this Agreement, neither party will be required to negotiate with respect to any such matter, whether or not covered by this Agreement, and whether or not within the knowledge or contemplation of either or both of the parties at the time they negotiated or signed this Agreement. Re-negotiations may commence only upon the written request of both parties hereto.
- B. This agreement shall not be modified in whole or in part by the parties except by an instrument in writing duly executed by both parties.
- C. Except as this Agreement shall hereinafter otherwise provide, all terms and conditions of employment applicable on the effective date of this Agreement to employees identified under Article 1 – Recognition shall continue to be applicable during the term of this Agreement. Nothing within this Agreement shall be interpreted or applied so as to reduce, eliminate, or otherwise detract from any contractual benefit in existence prior to the effective date.
- D. Successor and Assigns: To the extent permitted by law this agreement shall be binding upon the successors and assigns of the parties hereto, and no provisions, terms, obligations or past practices herein contained or referenced shall be affected, modified, altered, or changed in any respect whatsoever by consolidation, merger, annexation, transfer or assignment.

Article 37. TERM AND RENEWAL

- A. This Agreement shall be in full force and effect as of **January 1, 2006** and shall remain in effect up to and including **December 31, 2010**
- B. The terms and conditions contained herein shall be given retroactive effect, as though the Agreement was commenced on **January 1, 2006** unless otherwise specified herein.
- C. The above parties shall commence contract negotiations in accordance with all applicable State laws and regulations.

WITNESS

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals at Evesham Township, New Jersey, on the day and year first above written.

**Evesham Fire Officers
FMBA – Local 115**

**Board of Fire Commissioners
Evesham Fire District No. 1**

By: _____

By: _____

Attest: _____

Attest: _____