

## MEMORANDUM OF AGREEMENT

This Agreement has been prepared in a spirit of partnership, cooperation, and mutual respect. It reflects the interests of both parties in promoting a work environment conducive to quality service to agency customers.

The following articles constitute the Agreement between the United States Army Corps of Engineers, Wilmington District, and the American Federation of Government Employees, Local #406.

Approved by the Department of Defense on March 26, 1997

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## **ARTICLE 1: RECOGNITION AND UNIT DETERMINATION**

SECTION 1. The U.S. Army Corps of Engineers, Wilmington District, hereinafter referred to as the Employer, recognizes AFGE Local 406, hereinafter referred to as the Union, as the exclusive representative of all eligible employees in the unit. The Union will act for, and negotiate agreements for, the bargaining unit employees identified below.

### **SECTION 2. Unit of Recognition:**

Included - All nonprofessional employees of the U.S. Army Corps of Engineers, Wilmington District Headquarters including employees of the Survey Unit and Maintenance Section; employees of Survey Party located at Morehead City, North Carolina; and any other employees who may be recognized for inclusion by the Federal Labor Relations Authority (FLRA) subsequent to the date of this Agreement.

Excluded - supervisory; managerial; professional; confidential; guards; employees engaged in Federal personnel work other than clerical; employees represented by other unions, and those referenced in 5 USC 7112(b).

## **ARTICLE 2: MANAGEMENT RIGHTS**

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SECTION 1. Nothing in this agreement shall affect the authority of any management official as set forth in 5 USC 7106:

a. to determine the mission, budget, organization, number of employees, and internal security practices of the agency;

b, in accordance with applicable laws, regulations, and policies:

(1) to hire, assign, direct, lay off, and retain employees in the agency, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;

(2) to assign work, to make determinations with respect to contracting out and to determine the personnel by which agency operations shall be conducted;

(3) with respect to filling positions, to make selections for appointments from:

- (a) among properly ranked and certified candidates for promotion;
  - or
  - (b) any other appropriate source;
- (4) to take whatever actions may be necessary to carry out the agency mission during emergencies.

SECTION 2. Nothing herein shall preclude the Employer and the Union from negotiating: ·

- a. at the election of the Employer, on the numbers, types and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work;
- b. procedures which the Employer will observe in exercising any authority under this section; or :
- c. appropriate arrangements for employees adversely affected by the exercise of any authority under this section.

SECTION 3. Whenever language in this Agreement refers to specific duties or responsibilities of specific employees or management officials, it is intended only to provide a guide as to how a situation may be handled. It is agreed that the Employer retains the sole discretion to assign work and to determine who will perform the function discussed.

### **ARTICLE 3: UNION RIGHTS TO OPERATE**

SECTION 1. In all matters relating to personnel policies, practices, and other conditions of employment, the parties will have due regard for the obligations imposed by 5 USC Chapter 71, this agreement, and any supplements thereto.

SECTION 2. The Union is the exclusive representative of the employees in the bargaining unit and is entitled to act and bargain for all employees in the unit in accordance with 5 U.S.C. Section 7114.

SECTION 3. The Civil Service Reform Act of 1978 provides that the Union shall be informed of and be entitled to be present at all formal discussions between one or more representatives of the Employer and one or more bargaining unit employees or their

representatives concerning any grievance, personnel policies and practices, and other general conditions of employment.

SECTION 4. The Union shall have the right to be present during an employee grievance proceeding under the negotiated grievance procedures as provided for in this agreement.

SECTION 5. The Employer and Union agree that, in the spirit of partnership, it is preferable to resolve issues directly among representatives on both sides who are employees of the District, and at the lowest possible level. We will encourage strong lines of communications between management and employees through Local 406. Both sides recognize the Union's right to designate any representative the Union deems appropriate. The Employer shall recognize such duly appointed representatives and conduct appropriate labor relations business with them, upon receipt of written designations signed by the President or other Officer authorized to sign for the President of the Union.

#### **ARTICLE 4: EMPLOYEE RIGHTS**

SECTION 1. Each unit member has the right freely and without fear of penalty or reprisal, to form, join, and assist the Union or to refrain from any such activity, and each unit member shall be protected in the exercise of this right. The right to assist the Union extends to participation in management of the Union and acting for the Union in the capacity of a Union representative, including presentation of its views to officials of the Executive Branch, the Congress, or other appropriate authority.

SECTION 2. Nothing in the Agreement shall require an employee to become or to remain a member of the Union except pursuant to a voluntary, written authorization by an employee for the payment of dues through payroll deduction.

SECTION 3. All employees shall be treated fairly and equitably and with dignity in all aspects of personnel management, without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or handicapping condition, and with proper regard and protection of their privacy and constitutional rights. The parties also agree that employees shall not be treated unfairly as a result of conduct unrelated to the employee's performance or conduct that does not affect the well-being of the workforce. It is agreed that the Employer and the Union will endeavor to establish working conditions which will be conducive to enhancing and improving employee morale and efficiency.

SECTION 4. Employees shall have the right to direct and/or fully pursue their private lives, personal welfare, and personal beliefs without interference, coercion, or

discrimination by: the Employer so long as such activities do not conflict with any laws or regulations governing their employment.

#### SECTION 5.

a. Each employee shall have the right to be represented by the Union at an examination of the employee conducted by a representative of the Employer in connection with an investigation if: . . .

(1) the employee reasonably believes that the examination may result in disciplinary action against the employee; and . . .

(2) the employee requests representation.

b. Upon request by an employee for representation, the examination will cease and the employee will notify the Union of his/her desire for representation.

SECTION 6. In the event that an employee receives a work assignment or instruction from one management official that conflicts with a work assignment or instruction given by another management official, the following procedure will apply:

a. As a minimum, the employee will inform the management official who issued the conflicting order of the conflict, and will make a good faith effort to inform the other management official of the apparent conflict in assignment/instructions.

b. It is the responsibility of the Employer to determine which assignment/instruction is to be carried out.

c. The employee will await clarifying instructions as to what assignment he/she will perform.

d. The Employer retains accountability for activities performed in accordance with the instructions given.

SECTION 7. Employees recognize their responsibility to comply promptly with all orders and instructions from their supervisors. If an employee reasonably believes that an order or instruction patently violates any law, rule, or regulation, he/she has the right to state those beliefs to the supervisor. If the instruction remains unchanged, the employee has the right to state concisely his/her beliefs promptly and orally to the next higher level of management available. If the order or instruction is confirmed by that higher level of

management or if the higher level of management is not readily available, then the order or instruction will be carried out promptly by the employee. The Employer retains its accountability for activities performed in accordance with the instructions given.

## **ARTICLE 5: LABOR-MANAGEMENT PARTNERSHIP COUNCIL**

SECTION 1. The parties affirm their commitment to work together as partners to maintain a positive and productive work environment. To this end, we agree to establish a Labor-Management Partnership Council (LMPC). The Council shall provide a structured forum for; the informal exchange of ideas on matters that affect the working conditions of all employees in the bargaining unit. It shall foster an atmosphere of open and honest communications for discussions of issues of mutual interest.

SECTION 2. Items which the Council may discuss include, but are not limited to:

- Interpretation or application of this Agreement,
- Matters regarding personnel policies and practices and working conditions not addressed by this Agreement,
- Potential improvements to the Agreement. The parties must mutually agree to re-negotiate any language in the Agreement prior to the eighteen month anniversary of the execution of this Agreement. After that time, Articles will be re-negotiated if, after discussion by the Council, it is so requested by either party.

Items which are not appropriate for discussion by the Council include specific grievance actions or other formal disputes which are being addressed under procedures described elsewhere in this agreement.

SECTION 3. The Council shall consist of three representatives of each party. Meeting times will be set by mutual agreement and shall occur at least once per quarter. Either party may, with the consent of the other party, bring guests to a meeting when it would be conducive to discussion of a subject matter on the agenda. At each meeting, the parties shall select a chairperson for the next meeting who will be responsible for making arrangements for a meeting room, collecting agenda items, distributing the agenda prior to the meeting, and recording and distributing the minutes. Either party may propose items for discussion and should do so at least one week prior to the meeting.

## **ARTICLE 6: UNION ATTENDANCE AT DISTRICT STAFF AND MANPOWER COMMITTEE MEETINGS**

SECTION 1. A Union representative may request attendance at a staff or Manpower Committee meeting to address the staff on a particular issue. Permission to attend will be at the discretion of the District Engineer or the Chairperson of the Manpower Committee.

SECTION 2. A Union representative may attend any staff or Manpower Committee meeting at the invitation of the DE or Manpower Committee chairperson.

SECTION 3. A copy of the minutes of all District staff meetings will be furnished to the Union.

## **ARTICLE 7: OFFICIAL FACILITIES AND SERVICES**

SECTION 1. Adequate office facilities for the conduct of representational activities shall be provided by the Employer to the Union. The Union shall use Employer-provided facilities only to carry out its representational functions.

SECTION 2. The Union shall be provided private office space. Furnishings shall include a phone, desk, chairs (minimum of two), and a lockable file cabinet. The goal is to assign adequate space which is easily accessible.

SECTION 3 The Employer-provided office facilities for representational functions shall also include:

- a. reasonable use of copying machines;
- b. use of the Employer's personal computer (PC) system, word processing equipment, and/or typewriter. The parties understand that the Union will provide its own data storage disks. for such use; and,
- c. use of a telephone and facsimile by officers and stewards for local and long distance calls. If any Union representative who is authorized to use a telephone is absent, a person may be designated to act in his/her behalf during this period. A system of tracking phone calls may be used at the Employer's discretion. The Union shall, upon request of the Employer provide the name of the person/organization called for any phone call made on the Union's designated extension. ·

SECTION 4. At the request of the Union, and subject to availability, suitable space within the District Office building for membership or other such Union meetings during non-duty hours will be provided by the Employer.

SECTION 5. The Employer agrees to include the Union on the mailing list for notification of new employee group orientation sessions. The Union has a right to have a representative at the orientation if bargaining unit employees are present.

SECTION 6. The Employer agrees to list the Union's name, by local designation, and the Union President's extension on the District's "quickie directory" and District Commo Directory.

SECTION 7. The Employer agrees to provide the Union access to available agency and Government-wide regulations currently in effect concerning personnel policies, practices, procedures, and working conditions.

SECTION 8. The Employer will provide the Union with a master listing of bargaining unit members, which includes each member's name, position title, grade, and organizational codes, updated semi-annually (January and July). This listing will include an indication of which positions are designated as Upward Mobility. The parties understand that the Union has a right to this information, in order to perform its representational duties, and as such, may contact Civilian Personnel Advisory Center (CPAC) :for clarification of the data provided. "Clarification" includes, but is not limited to, correction of that data if it is found to be erroneous, or inclusion of data that should have been included but may have been inadvertently omitted.

SECTION 9. The Employer will provide the Union one official bulletin board for its exclusive use, which shall be located immediately outside of the Union's office. The bulletin board will be approximately 2' X 3' and will be used for the posting of notices related to Union events, activities, and items of interest to unit employees. The Union will be fully and solely responsible for the posted materials in terms of accuracy and adherence to ethical standards. Material may not contain any scurrilous, libelous, disparaging, or otherwise inappropriate material. The Union is responsible if any statements are made against any individual or organization, to the extent that the Union may have to substantiate (or otherwise answer for their charges) through any legal proceeding. Violation of standards concerning content and distribution of literature may result in revocation by the Employer of the use of the official bulletin board by the Union. The preparation and reproduction of material placed by the Union on official bulletin boards will be the responsibility of the Union.

SECTION 10. The Employer agrees to provide the Union a mailbox in the District Office mailroom:

SECTION 11. The Employer agrees to allow the Union to use its internal mail system to distribute material (except internal Union campaign literature), in accordance with the following guidelines:

- a. Material must be addressed to a particular individual, i.e., "bulk". mailings which require sorting by Mailroom employees will not be allowed.
- b. Material should be presorted by organization, in order to facilitate its distribution by mailroom personnel.
- c. Material being mailed to Wilmington District field offices with bargaining unit members will be processed as part of Construction-Operations Division's bulk mailings to those locations.

SECTION 12. The Employer agrees to permit the Union to use the electronic mail system to communicate with bargaining unit employees as needed for representational purposes only and for communicating with the CP AC. The Employer will provide the Union an e-mail ID. The Union can establish a private distribution list and bulletin board under their e-mail ID with the names of bargaining unit employees for this use. It will not be used for soliciting members or conducting internal Union business. Electronic equipment and message traffic are always subject to inspection at any time by the appropriate authorities (Security Office and Information Management Office), particularly if there may be reason to suspect security violations of any kind. The Union may share information and formal notices with management via e-mail, but any communication to management (other than to the CPAC) requiring a response will be in hard copy.

SECTION 13. The Employer agrees to permit the Union the use of other means of communication which are available to other organizations, consistent with District policy.

## **ARTICLE 8: EMPLOYEE PERSONNEL RECORDS**

SECTION 1. The Employer shall maintain and retain official employee personnel records at the Civilian Personnel Operations Center (CPOC) in accordance with law, rule, regulation, and this Agreement. Upon request to the supervisor and the appropriate CPAC official, an employee shall have the right to copy or to review his/her personnel records without charge to leave or loss of pay. Employees shall have the right to

designate a representative in writing who will have the right to copy or review the employee's records. Employees shall have the right to prepare and enter in the file statements they wish to make about information contained in their personnel files in accordance with applicable regulations.

SECTION 2. Personnel related records kept by an employee's immediate supervisor shall be maintained in a secure, confidential file and shall be accessed only by individuals with a need to know the contents.

## **ARTICLE 9: ACCESS TO INFORMATION**

SECTION 1. Consistent with 5 U.S.C. 7114(b), the Employer agrees to furnish to the Union, upon request and to the extent not prohibited by law or regulation, information etc.:

- a. which is normally maintained by the Employer in the regular course of business;
- b. which is reasonably available and necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining; and
- c. which does not constitute guidance, advice, counsel, or training provided for management officials or supervisors, relating to collective bargaining.

SECTION 2. Union requests for information should be made in writing and be directed to the CPAC. Such requests must demonstrate that the requested information is required in order for the Union to adequately represent its members by stating, specifically, why it needs the requested information, how it will use the information, and the connection between those uses and its representational responsibilities. Once the Union has established its need for the information, the Employer will determine what information is available in its records which satisfies the request and will make a decision on the request. In the event the Employer determines that some or all of the requested information should not be disclosed, it shall explain this to the Union in writing by identifying its specific concerns about disclosing the information. The Union retains the right to pursue denials through whatever remedies are available to it.

SECTION 3. Processing requests for information pursuant to this article shall be at no cost to the Union.

## **ARTICLE 10: ASSIGNMENT OF ILL OR INJURED EMPLOYEES**

SECTION 1. An, employee recuperating from a non-job related illness or injury and who is temporarily unable to perform his/her assigned duties may voluntarily submit a written request to his/her supervisor for temporary assignment to duties commensurate with the disability and the employee qualifications. The employee will provide adequate medical documentation to support the request. The Employer shall, to the extent possible, and in accordance with applicable rules and regulations and medical recommendations, make a reasonable effort to grant such temporary assignments when requested.

SECTION 2. Both parties agree that employees recuperating from on-the-job injuries or illnesses should be returned to productive work as soon as possible. In this regard, the Employer has the right to require employees who are found to be medically fit for limited duty by a competent medical authority, to return to such duty, should such duty be available.

## **ARTICLE 11: SAFETY, HEALTH & WELFARE**

SECTION 1. The Employer will provide and maintain a safe and healthful work place to include equipment and vehicles, and will comply with Corps of Engineers and applicable OSHA safety standards. The Union will cooperate to that end and encourage employees to work in a safe manner.

SECTION 2. The Employer and the Union agree to take prompt action to address and take steps to eliminate any unsafe condition or act which is observed by or reported to either party.

SECTION 3: The, employee has a right to decline to perform his or her assigned tasks because of a reasonable belief that, under the circumstances, the task poses an imminent risk of death or serious bodily harm, and that there is insufficient time to effectively seek corrective action through normal hazard reporting and abatement procedures. In such cases, the employee shall report the situation in the most expeditious manner available.

SECTION 4. In the interest of safety, the Employer will attempt to minimize instances where employees are required to work alone in potentially dangerous situations. In such cases where the Employer assigns an employee to work alone, reasonable efforts will be made to periodically check on that employee.

SECTION 5. Personal protective equipment required by the Employer shall be furnished by the Employer and used by employees.

SECTION 6. To the extent regulations allow, foul weather gear will be furnished by the Employer to employees working in areas where severe conditions are present.

SECTION 7. The parties recognize that the maintenance of good physical health of employees has a direct relationship to the ability to perform one's job. In this regard, the Employer agrees to provide a health and wellness service program that promotes the physical fitness of employees. The Employer and the Union will work to educate employees on good health habits and to encourage employees to participate in available health and wellness programs. Subject to the availability of funds, the Employer will reimburse a portion of the membership costs, up to \$140.00 a year, for participation at an approved health club. To qualify, clubs must be a permanent organization, with membership open to the general public. It must provide a general means of exercise and include exercise equipment, shower changing room, and instructors for organized exercise classes. For employees in the Wilmington area, the approved club is the one awarded the contract for the health and wellness program. In field offices, employees may join a club of their choice, as long as it meets the criteria for approval. Employees who join a health club under this cost-shared program must attend at least 6 times a month to stay in the program.

SECTION 8. The Employer agrees to provide reasonable first aid training and supplies. Inoculations will be provided to employees, on a voluntary basis, when a competent medical authority recognizes a clear and present need which threatens the general health and welfare of employees. (Example: flu shots and tetanus)

SECTION 9. The Employer agrees to make a reasonable effort to maintain the toilet/bathroom facilities in a sanitary condition with adequate toilet tissue, hand towels, soap and hot water, and proper ventilation.

SECTION 10. Personnel subjected to equipment or conditions which require clean up will be provided reasonable clean up time prior to lunch and prior to the end of the work day.

SECTION 11. The Employer and the Union recognize that matters of discomfort to employees which do not necessarily rise to the level of serious health or safety hazards are still important. The Employer will make a reasonable effort to remedy matters such as uncomfortable temperatures, odors, drafts, and similar negative environmental factors in the workplace. The Employer may consider, but will not be limited to, such remedies as relocation of work stations, reassignment of work, and/or in extreme circumstances, temporary excuse from duty.

SECTION 12. Employees contemplating retirement will make a timely request for retirement counseling (benefits and entitlements): CPAC will provide counseling within two (2) weeks of request. The Union will encourage its members to plan ahead for retirement and seek counseling at least six (6) months prior to contemplated retirement date.

SECTION 13. The parties agree that work consisting of repetitive or routine tasks may expose employees to a greater than normal fatigue factor. Employees should rotate repetitive tasks, where possible, to reduce fatigue.

SECTION 14: The Employer will ensure that all employees are informed of safe working habits and practices and that regulations relating to safety and health are available. Supervisors shall instruct employees in safe working habits, practices, and procedures with regard to specific job assignments, and where appropriate, provide formal training.

## **ARTICLE 12: PERFORMANCE APPRAISALS**

SECTION 1. The parties agree that performance appraisals and performance counseling are critical elements in mission accomplishment and employee development. As such, appraisals will be thorough and as fair and accurate as possible. We further agree that the appraisal process is an interactive one requiring effort on the part of the employee and the employee's rater, and shall be accomplished in accordance with applicable rules and regulations. Performance appraisal documents are usually important factors in other personnel actions such as promotions, reassignments, awards, and Reductions In Force.

SECTION 2. The essential elements of the appraisal process include:

- a. An initial counseling session at the beginning of the rating period;
- b. Periodic, interim-counseling sessions as needed, but one formal mid-term session as a minimum;
- c. A final session at the end of the rating period.

At the initial session, the rater and the ratee will discuss and define goals and objectives and/or key expectations for performance, and an Individual Development Plan (IDP). During interim counseling, the rater and the ratee will discuss progress made toward accomplishing goals and objectives, identifying both successes and areas where

improvement can be made, and adjusting goals and objectives as appropriate. If, at any time during the rating period it is pointed out to an employee that he/she is performing at something less than a fully successful level, the employee will be given specific counsel on what that person needs to do to improve performance. Employees operating at successful levels have the right to have their rater explain to them the performance criteria necessary to achieve higher levels of success. The rating period close-out counseling will be conducted, except in the event of extenuating circumstances, face-to-face, and shall be thoroughly documented. Appraisal documentation will be prepared jointly by the rater and the ratee and will summarize the employee's accomplishments and contributions during the year. It will also offer suggestions for the continued development and improvement of the employee and will include an Individual Development Plan designed in accordance with current policy.

SECTION 3. At the initial counseling session, raters shall ensure that the ratee's job description is accurate. Any adjustments required shall be forwarded to CPAC within 30 days after completion of this process. Subsequent adjustments will be made as required and appropriate.

SECTION 4. If at any time during the rating period an employee is assigned or detailed to another work element for the performance of a special assignment, but less than 120 days, the rater will consider the performance of the employee in that assignment in compiling his/her overall assessment. The rater will normally solicit input from the team leader or supervisor of the detail or special assignment in evaluating the employee's contribution in that role. (Details of 120 days or more are separately rated.)

SECTION 5. The Employer will provide orientation to all new employees on the performance appraisal system, and will provide training to all employees on implementation of any new appraisal system or substantive changes to the current system.

SECTION 6. Union representatives will not be penalized in performance evaluations for the conduct of approved labor-management representational functions under the terms of this Agreement and the provisions of law.

SECTION 7. Every employee will be furnished a copy of his/her job description or a list of duties at the beginning of a new assignment. Job elements and performance standards will be provided within the first thirty (30) calendar days of assignment to a position.

## **ARTICLE 13: MERIT PROMOTION AND PLACEMENT PROGRAM**

SECTION 1. The purpose and intent of the Merit Promotion and Placement Program (MPPP) is to ensure that employees are given full and fair consideration for advancement and to ensure selection from among the best qualified candidates. The Employer agrees to effect promotion and placement of bargaining unit employees in accordance with applicable rules and regulations. To the extent that it is otherwise consistent with this Article, the Employer agrees to give due consideration to promotion from within as a part of the merit placement selection process.

SECTION 2. Merit promotion vacancy announcements for permanent placements will be open and posted for a minimum of 15 calendar days; merit promotion vacancy announcements for temporary placements will be open and posted for a minimum of 9 calendar days. The Union will be provided copies of the vacancy announcements as they are posted.

a. When a position is to be filled under the provisions of the MPPP, it will be fully identified as to whether permanent or temporary. If a position is announced as temporary and the announcement does not state that it may become permanent, the position will be reannounced if it does become permanent.

b. The qualification requirements and selective placement factors for positions to be filled through Merit System procedures will be fully relevant to such positions.

c. Merit System procedures will apply to selection by transfer, reinstatement, or reassignment to positions with known promotion potential. An exception to this is that an employee may be non-competitively assigned to a position of known promotion potential if that potential does not exceed the promotion potential of the employee's current or any previous permanent position.

SECTION 3. The Selecting Official will make his/her selection from the referral lists furnished by CPOC. The Official will base his/her selection on job related factors. When referral lists for permanent positions are received, the CP AC will request information from the CPOC regarding whether any bargaining unit members were not referred. The Union will be notified of the results. The Employer at his/her discretion may decide not to fill a vacancy even after receiving a properly developed Referral and Selection Register, or may elect to fill from another source, e.g., reinstatement eligibles.

SECTION 4. All bargaining unit members referred for selection will be notified of the results of the selection process as close to the same time as practicable.

SECTION 5. Any concerns regarding implementation of the MPPP will be addressed in the LMPC.

SECTION 6. The Employer will promote an employee in a career ladder when the employee meets the eligibility requirements; has demonstrated the ability to perform at the higher level; and there is sufficient higher level work available to justify the higher grade.

The Employer will discuss with the employee the type of progress needed to meet the criteria for a career ladder promotion at the documented progress review or at the time of the annual rating of record.

SECTION 7. An employee who is demoted because of Reduction in Force (RIF) will be entitled to special consideration for repromotion for the period of time during which the employee is entitled to grade retention benefits. Such an employee may apply for a repromotion to their former position, or equivalent position in the same section or work unit and will be given first priority consideration for the promotion. If nonselected, the Employer will provide the employee the reasons for nonselection, in writing if requested by the employee.

SECTION 8. The Employer will notify the Union, in advance or as soon as possible, of any selection or appointment when the Bargaining Unit position is to be filled in the following manner:

- a. Management directed or initiated reassignment, voluntary reassignment, or change-to-lower grade.
- b. Employees placed under RIF procedures.
- c. Priority consideration.
- d. Temporary promotions.
- e. Details exceeding 30 calendar days.
- f. Career promotion resulting from accretion of additional duties and responsibilities.

- g. Statutory/regulatory/mandatory/placements directed by higher authority.
- h. Conversion of Co-op students.

SECTION 9. Prior to the filing of a grievance, an employee who alleges violation of the MPPP may request a preliminary examination of the record. The Employer will provide access to the requested information in accordance with Article 9.

SECTION 10. Job series classification standards will be maintained by the Employer and made available to the Employee.

#### **ARTICLE 14: UPWARD MOBILITY**

SECTION 1. The Employer and the Union agree that an effective Upward Mobility Program (UMP) is in the best interests of the Employer and the Union. The Employer agrees to provide employees With opportunities within available resources and vacancies to reach their full career potential through an UMP that provides developmental experiences and training, in accordance with applicable local and Agency regulations. In this regard, the Employer agrees to evaluate each bargaining unit vacancy prior to advertisement and determine the feasibility of establishing an Upward Mobility position for that vacancy

SECTION 2. Where Upward Mobility positions have been established, the Employer agrees that these positions shall be available to employees who demonstrate potential and interest, but do not currently meet basic qualification standards, for the target position.

SECTION 3. The objectives of the UMP are:

- a. To provide participating employees with skills, knowledge, and abilities, through experience, assignments, and selected courses, to meet OPM qualification standards and to function effectively at full performance in the target position;
- b. To provide more effective utilization of employee potential. Potential refers to an individual's capabilities (skills, knowledge, and abilities) not normally reflected in the duties and responsibilities of their current position. An individual's potential, when assessed through the selection process and given planned development, can, lead to a career with advancement opportunities;

- c. To provide upward mobility opportunities for selection of employees whose current assignments do not provide for further advancement;
- d. To provide employees opportunities to grow and enhance their qualifications and to progress into career positions;
- e. To provide an in-house base for selection of personnel for the technical, administrative, craft/trade positions, and thus diversify the employee population in those careers; and
- f. To motivate employees toward high achievement and create a climate conducive to high morale.

SECTION 4. Trainees may be competitively selected from career or career-conditional employees in grades GS-2 through GS-8 or their wage grade equivalents.

SECTION 5. When an UMP vacancy is to be filled, the CPOC shall formally announce the position. Announcements identifying Upward Mobility positions shall be posted on the Employer's bulletin boards in the identified minimum area of consideration.

SECTION 6. All candidates for an upward mobility position shall be notified of the outcome of the selection process, including selection, non-selection, or cancellation.

SECTION 7. Upward Mobility training programs may be flexible in terms of length, sequence, or scope of training, in accordance with the needs of the individual trainee and the Employer.

SECTION 8. The trainee shall receive career counseling from their supervisor upon entering the Program, and preferably once a quarter thereafter.

SECTION 9. Upon successful completion of all requirements and upon certification by the supervisor that higher level work is being performed, the trainee shall be placed in the next higher level position, as indicated in the employee developmental plan. The supervisor shall prepare and submit Standard Form 52 requesting the promotion action within two weeks of certification.

SECTION 10. Prior to the selected candidate's assignment to the Upward Mobility position, and Upward Mobility Training Plan which describes the on-the-job and formal training required for each grade level to reach the target position, will be developed

through a joint effort of the selectee and the supervisor. Training Plans may later be modified if determined necessary by the supervisor.

## **ARTICLE 15: WORK AT HOME PROGRAM AND JOB SHARING**

SECTION 1: The Employer agrees that flexible workplace arrangements may be approved only when it is clearly in the best interest of the employee and the Employer. The Flexible Workplace Program shall be administered in accordance with Commander's Policy Memorandum No 12 and CEHR-D Circular No. 690-1-692 and all other applicable rules and regulations. The following criteria apply.

a. Short, infrequent periods of work at home may be approved for maternity or paternity reasons, during the convalescence of a short-term injury or illness, or when the work office itself is not usable, e.g., during office renovation.

b. Flexible workplace arrangement periods shall not exceed 90 days unless an exception is approved by the District Commander.

c. Employees do not have a right to work at home; neither can an Employer require an employee to work at home.

d. Each case will be evaluated on its own merit.

SECTION 2: An alternative workplace request may be initiated by an employee or by the supervisor. It must be in writing and explain the basis for the request. Once a request is approved, a written agreement must be prepared and signed by the employee and immediate supervisor.

SECTION 3. If approved, it is the responsibility of the employee to ensure that a proper work environment is maintained and personal/family responsibilities do not interfere with the scheduled work time or accomplishment of assigned work. It is the responsibility of the Employer to monitor work performance. Current performance must contain standards covering work completed at the office as well as work completed offsite.

SECTION 4. Job sharing arrangements may be approved by the Employer subject to applicable rules and regulations.

## **ARTICLE 16: TRAINING AND CAREER DEVELOPMENT**

SECTION 1. It is recognized that training and development of employees is important to the execution of the District's mission. Subject to available resources, the Employer agrees to provide opportunities for training and to solicit and consider the views of the Union in its effort to maintain progressive, effective policies and programs designed to:

- (a) Aid employees in improving performance in current positions;
- (b) Provide career mobility and development opportunity within the District; and
- (c) Establish and continue training programs that are supportive to the Equal Employment Opportunity and Affirmative Action programs of the Employer.

### SECTION 2.

a. The parties understand that an employee Individual Development-Plan (IDP) should be jointly developed by the supervisor and the employee, in accordance with existing guidelines and regulations. The IDP will include training and self-development activities needed to develop, maintain, or improve employee performance, either in his/her current position, or in a position through or to which the employee can non-competitively progress (e.g., a position with known promotion potential for which the employee has already competed.) The IDP will be responsive to both the needs of the employee and the requirements of the District. The Employer will make every effort to insure that IDP's are realistic and achievable and schedule training accordingly.

b. The following criteria will be used by the Employer and the employee when developing an IDP and when approving or developing a training request. Training will be provided;

- (1) To improve a skill deficiency and subsequent job performance as documented through the performance appraisal and IDP process;
- (2) When it is directly related to the employee's current job duties or to those duties the employee may be reasonably expected to assume through formal trainee assignments such as upward mobility, Veterans Readjustment Appointment (VRA), etc.
- (3) To enable the efficient and expedient accomplishment of new mission requirements;

(4) As mandated by higher headquarters;

(5) To update skills as required by new equipment and/or advanced technology;

(6) In accordance with the availability of funds.

SECTION 3. The parties recognize that employees are responsible for applying reasonable effort, time, and initiative in increasing their potential value to the Employer through self-development and training. Employees are encouraged to take advantage of training and educational opportunities available and needed to increase their efficiency in the performance of their duties or for possible advancement. The Employer may consider providing such training to employees upon request. Funds for this purpose must be requested, approved, and obligated before the training begins.

SECTION 4. The Employer will provide the Union with a copy of the Annual Training Plan at the time the plan is distributed.

SECTION 5. Employees may be granted variations within the normal workweek, including leave without pay, for educational purposes where such modifications of normal work schedules do not appreciably interfere with the accomplishment of work to be performed. Training will be such that it equips the employee for more effective work in the District.

SECTION 6. Employees are encouraged to join and participate in organizations which are related to their work.

## **ARTICLE 17: EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION**

### SECTION 1.

a. The Employer and the Union affirm their commitment to the policy of providing equal employment opportunities to all employees and to prohibit discrimination because of race, color, religion, sex (including sexual harassment), national origin, age ( 40 years or over) or handicapping conditions. The Employer is responsible for ensuring a work environment free of retaliation based on any of the factors listed above. The Employer is responsible for promoting equal employment

opportunity through a positive, continuing, and results-oriented program involving all management policies, programs, objectives, practices, and personnel.

b. The Employer will emphasize management's responsibility for implementing established EEO goals and objectives.

c. The Employer will make a reasonable effort to ensure that all employees understand the EEO program and recognize special emphasis programs (e.g., Black Employment Program, Hispanic Employment Program, Federal Women's Program).

d. In connection with efforts to correct under-utilization and under-representation of minorities and women, the Employer will consider, among other devices, the application of the UMP.

e. The Employer will modify or eliminate any unlawful employment practices concerning promotion, training, disciplinary actions, selection criteria, awards programs, and career progression.

f. The Employer shall be responsible for assuring that reasonable accommodations are provided for employees with handicapping conditions. On a case by case basis, the Employer will consider making special parking accommodations for handicapped employees in addition to the currently designated handicapped parking spaces.

g. The parties agree that the success of the EEO program depends largely on adequate program resources, sufficient staffing, accountability of managers, supervisors, employees, and program publicity. In this regard, the Employer agrees to allocate the necessary effort and resources to effectively administer the EEO program.

## SECTION 2.

a. The Employer and the Union agree that the elimination of discrimination in all aspects of employment is a reasonable and necessary objective. To that end, the Employer agrees that in accordance with the directive issued by the Equal Employment Opportunity Commission (EEOC) and higher headquarters, it will develop and maintain an Affirmative Action Plan (AAP). The Union will be given the opportunity to participate in the development of the AAP and will be provided a copy of the final document.

b. The AAP will contain program/barrier statements, objectives, and specific action items with target dates and responsible officials to remedy any areas which impact on providing equal employment opportunity for employees.

c. The AAP shall be effective for the time period specified by EEOC.

### SECTION 3.

a. The names, pictures, telephone numbers, and location of the EEO Counselors, EEO Officer, and the representatives of the Special Emphasis Programs will be posted and made available to the entire workforce through reasonable means.

b. The Employer will assure that EEO Counselors are available and accessible to employees who may have a discrimination complaint. The Employer will work with the employee in the selection of an appropriate EEO Counselor.

c. The Employer agrees to accept nominations from the Union for EEO Counselors and members of the EEO Advisory Committee. The Employer shall give the Union's nominees the maximum consideration allowed by law. Candidates must meet the criteria established by applicable laws and regulations. The Employer will request nominations from the Union when considering individuals to serve as Special Emphasis Program Managers. The Employer agrees to appoint at least one Union nominee to the EEO Advisory Committee.

d. The Employer shall provide specialized training as necessary, in accordance with applicable laws and regulations, for individuals appointed to the activities in this Section.

### SECTION 4

a. EEO counselors will fully advise employees who seek their assistance of the procedure (including time limits) involved in processing an EEOP complaint under the EEO complaints process. The Counselor will also advise the complainant of the right to file a grievance under the negotiated procedure as outlined in Article 35 of this Agreement. If the employee elects to file a complaint, the employee must choose to file the complaint under the negotiated grievance procedure or the statutory EEO process, but not under both.

b. The complainant may elect to use an existing Alternative Dispute Resolution (ADR) process; however, the complainant's rights to pursue an EEO complaint are not

waived during the ADR process. At the same time, the complainant's responsibilities to comply with all requirements of the EEO process (e.g. time limits and points of contact) must be adhered to. In the event that ADR is terminated for any reason, the complainant may continue to pursue an informal resolution of the matter with EEO Counselor, or may request a Notice of Final Interview from the EEO Counselor. Guidance on the requirements of discrimination complaint appeals will be available in the appropriate administrative office or from an EEO Counselor.

c. Persons who allege discrimination or who participate in the presentation of such complaints will be free from restraint, interference, coercion, discrimination, or reprisal.

d. A complainant has the right to be accompanied, represented, and advised by a representative of his or her choice during counseling, or at any stage of the complaint procedure. The representative, if authorized in writing by the employee, will have the same access to information as the complainant.

SECTION 5. Upon request, the EEO office will provide the Union current statistics concerning the total workforce by race, sex, PATCO (Professional, Administrative, Technical, Clerical and Other) and any other available data.

## **ARTICLE 18: INCENTIVE AWARDS PROGRAM**

SECTION 1. Both parties agree that substantial benefits and enhanced productivity may accrue when an incentive awards program is fairly and equitably maintained to recognize the achievements of employees. In this regard and subject to the availability of funds, the Employer agrees to conduct the incentive awards program in accordance with the District's current policy. Both sides further recognize that incentive awards are intended to celebrate performance and are not entitlements.

SECTION 2. The following is a list of incentive awards available under the current program.

- a. Time Off Award
- b. Performance Award
- c. Special Act or Service Award
- d. Quality Step Increase
- e. On-the-Spot Cash Award
- f. Local and Stovepipe Award
- g. Honorary Award
- h. TeamAward

SECTION 3. Recognizing that awards are most effective when they are presented as promptly as possible after the performance or act that is being recognized, the Employer agrees to present awards as promptly as possible after the decision is made by the Employer to grant an award. Where the approval authority lies within the District, approval or disapproval of the award should occur within thirty (30) days of the nomination.

## **ARTICLE 19: EMPLOYEE ASSISTANCE PROGRAM**

SECTION 1. The Employer agrees to continue to provide an Employee Assistance program for District employees and their immediate family members affected by alcoholism, drug abuse, emotional illness or other personal problems which could adversely affect performance or conduct.

SECTION 2. The parties recognize that the program is designed to be carried out as a non-disciplinary procedure aimed at rehabilitation of persons who suffer from a health or other personal problem. If an employee requests assistance under the program, or is referred by the supervisor and participates in the program, the responsible supervisory official shall give consideration to this fact in determining any appropriate disciplinary and adverse action based upon the employee performance or conduct on the job.

SECTION 3. Upon Union request, the Employer may include a reasonable number of local Union representatives in briefing sessions or training and orientation programs so that there will be mutual understanding of policy, referral procedures, and other elements of the program.

SECTION 4. The Employer will advertise the program at least once a year. The notification will include a statement of the purpose of the program and telephone numbers of the Program Coordinator and counselors. Except in certain cases, where allowed by law or regulations, no employee will be required to participate or be penalized for merely declining referral to an available counseling service. Should any counseling appointment or treatment require an absence from duty, the employee must get sick leave approval in writing or make other appropriate arrangements with the supervisor.

SECTION 5. In every case when an employee is either referred to the program by a supervisor, or when the employee voluntarily participates in the program, the employee problem will be treated as confidential by the program staff and management officials involved, notwithstanding whatever knowledge others may already have.

## **ARTICLE 20: REDUCTION IN FORCE (RIF)**

SECTION 1. Through planning and other administrative methods, the Employer will seek to avoid the necessity of entering into a formal RIF action. However, when a RIF is required, all applicable regulations covering RIF procedures for employees in the competitive service will be followed.

### SECTION 2.

a. At the earliest possible date, the Union will be informed of any decision reached regarding RIF. This notice, in writing, will include the reasons for the anticipated RIF, the approximate number and types of positions initially affected, if known, and the anticipated date of the action. The Union and the Employer will meet to discuss the impact and implementation of the RIF.

b. The Employer will provide complete information needed by employees to fully understand the RIF and why they are affected. Specifically, the Employer shall: (1) inform all employees as fully and as soon as possible of time tables and requirements for RIF in accordance with applicable rules and regulations; (2) inform all affected employees of the regulations governing RIF and the kinds of assistance provided for affected employees.

SECTION 3. The Employer will publish a list identifying all employees by competitive level. This list will be updated annually in advance of any RIF.

SECTION 4. Performance appraisal ratings will be used to adjust service computation dates in accordance with governing rules and regulations and District policies. The specific ratings to be used will be as identified by District policy governing the use of performance ratings for RIF purposes.

SECTION 5. Vacancies will be used to the maximum extent possible to place employees who would otherwise be affected in a RIF. When a RIF is necessary, the Employer shall publish a list of District-wide vacancies which may be available to employees potentially affected by the RIF. The Union will be notified of any subsequent changes to the list. Those positions for which affected employees will qualify will not be advertised for permanent fill, pending the outcome of the RIF process. Other personnel actions such as promotions and reclassifications which would impact the results of the RIF process will be frozen pending the outcome of the RIF process.

SECTION 6. The Employer shall provide affected employees information and counseling on available services and outplacement programs through OPM and State employment security offices, and stress and mental health counseling through the employee Assistance Program. Within the constraints of time and budget, the Employer will: (a) provide workshops and job assessment and assistance on self-directed job search, resume preparation, and interviewing; and (b) reasonable use of facilities and official time for these activities. In addition, the Employer will coordinate with State Employment Services to determine whether any of the affected employees may be eligible for training at Government expense, and if so, will inform employees how to apply for training. The Union will encourage its members to take full advantage of the available programs and services.

SECTION 7. The Employer will provide briefings and individual assistance as needed. The Employer will also furnish, with the distribution of this contract, a handbook summarizing the RIF process. This will include extensive references to the applicable law in an effort to help employees understand this process. In the event of a conflict between this handbook and the law, the latter will govern.

SECTION 8. To the maximum extent possible and in accordance with applicable rules and regulations, the Employer shall consider VERA as an option when preparing for RIF, reorganization, or transfer of function.

SECTION 9. Upon receipt of a specific RIF notice, the employee shall have 14 calendar days in which to accept or reject the offer made. If a position with a higher representative rate or grade (but not higher than the rate or grade of the employee's current position) becomes available on or before the effective date of the RIF, the agency will make the better offer to the employee. However, offering the better offer will not extend the 60-day notice period.

## **ARTICLE 21: DETAIL ASSIGNMENTS**

SECTION 1. A detail is the temporary assignment of an employee to a different position or a different set of duties for a specified period, with the employee returning to his/her regular duties at the end of the detail. The employee continues to be the permanent incumbent of the position from which detailed. Initial details and extensions of details will be made in accordance with appropriate regulations.

## SECTION 2.

a. Normally, employees who are detailed into higher graded positions for 30 days or more will be temporarily promoted if otherwise qualified.

b. The Employer agrees that employees shall be recognized for the work that they perform. Therefore, details in excess of thirty (30) days will be documented and maintained as a permanent record in the employee Official Personnel Folder (OPF).

SECTION 3. A detail exceeding one-hundred and twenty (120) days to either a position of higher grade or to a position with known promotion potential exceeding the promotion potential of the employee's permanent position or any permanent position previously held shall be made under competitive placement procedures.

SECTION 4. Details will not be used for the sole purpose of giving an employee training and experience to qualify for higher level work unless the employee has qualified for the training under the terms of an established and approved training program or is selected competitively in accordance with the MPPP.

## **ARTICLE 22: FURLOUGHS FOR THIRTY DAYS OR LESS**

### SECTION 1.

a. This Article sets forth procedures which will be followed if the Employer determines it is necessary to furlough permanent nonseasonal employees, or seasonal employees during their normal work season, for thirty (30) days or less due to:

(1) Lack of work;

(2) Lack of Funds; and/or

(3) Unforeseeable circumstances such as a sudden breakdown of equipment, Acts of God, or sudden emergencies requiring immediate curtailment of activities including a lapse of appropriations. Unforeseeable circumstances, in addition to meeting the definition of emergency, also include the inability of the Employer to continue operations.

b. These procedures will be carried out in accordance with law and Government-wide regulations. Furloughs of more than thirty (30) days must be carried out according to reduction-in-force procedures.

## SECTION 2.

a. Before the Employer furloughs employees, except where an unforeseeable circumstance arises, the Employer will provide written notification to the Union thirty (30) days prior to the effective date of the furlough. Such written notification will include:

- (1) The reason for the furlough;
- (2) The organizational segments affected by the furlough(s); and
- (3) The estimated number of employees to be furloughed.

b. Except when a furlough is caused by unforeseeable circumstances, the Employer will provide written, individual notices to those employees who are to be furloughed thirty (30) days prior to the effective date of the furlough.

c. If an unforeseeable circumstance arises which causes the Employer to furlough employees, the Employer will give the Union and the affected employees as much advance notice as is possible and time permitting, will engage in impact and implementation bargaining at the affected work site(s).

SECTION 3. A bargaining unit member on duty as "essential" staff during a furlough maintains their right to Union representation. Should an urgent need for representation arise, a Union representative will be placed in the same status as the "essential" staff for whatever time appropriate to perform the representational duties.

SECTION 4. Once the Employer determines the number, types, and grades of employees necessary to accomplish the work, the Employer will notify employees at the work site and will solicit volunteers for furlough. If a sufficient number of volunteers do not come forth, then the Employer will select employees for furlough on a fair and equitable basis. Any employees not furloughed must be capable of performing the functions that are to continue being performed during the period of furlough.

SECTION 5. When the Employer has made a decision to furlough employees for a specified number of days during a specified period of time, employees will be provided an opportunity to submit a schedule identifying their preferences in accomplishing the necessary number of days off.

SECTION 6. Life insurance enrollment will continue without cost to the employee on a continuous furlough of thirty (30) days or less. Health insurance enrollment will continue, provided the employee continues to assume responsibility for his/her share of the plan's premium. The employee shall have the option of paying his/her share while on furlough, or waiting until returning to duty to make payment. In a discontinuous furlough, life insurance and health benefits will continue and contributions by the employee will continue if the salary in the pay period is sufficient to cover the full deduction for life and/or health insurance coverage.

#### SECTION 7.

a. Employees who are required to report for duty during a lapse of appropriations will be fully compensated in accordance with law and regulation.

b. Employees who are furloughed because of lapse of appropriations will be compensated if provided by law.

#### SECTION 8.

a. When a furlough is required due to a lapse in appropriation and where allowed by law, employees on approved annual leave will be permitted to complete the approved leave. Upon expiration of the approved leave, if the absence of an appropriation persists, the employee will be furloughed.

b. When a furlough is required due to a lapse in appropriation and where allowed by law, employees on approved sick leave which commenced prior to the furlough may continue on sick leave to the extent that such absence is covered by the employee accrued sick leave and as long as the employee remains ill or incapacitated as determined by competent medical authority.

### **ARTICLE 23: INVOLUNTARY REASSIGNMENTS**

SECTION 1. In the event the Employer proposes to involuntarily reassign an employee, the Employer agrees to issue a written proposal notice to the employee. The employee shall have fifteen (15) calendar days to respond to the proposal notice. The Employer further agrees that any reassignment action will not take effect until fifteen (15) calendar days after timely response by the employee. In the event the employee is neither timely nor responsive to the proposal notice, the Employer may reassign the Employee no sooner than thirty (30) calendar days after issuance of the proposal notice.

SECTION 2. The Employer agrees to give priority consideration for reassignment to employees involuntarily reassigned if the abolished position is reestablished within two (2) years and the employee requests such consideration. If the employee is selected for his/her former position, he/she will be eligible for a PCS at Government expense, in accordance with Volume II, JTR, and other applicable laws, rules, and regulations.

SECTION 3. The Employer agrees that involuntary reassignments shall be made in accordance with law, rule, and regulation.

#### **ARTICLE 24: CONTRACTING OUT**

SECTION 1. The Employer agrees to notify the Union at the time a decision is made to conduct any management efficiency reviews, (including an OMB Circular A-76 review), of its in-house organization, provided such review could impact upon bargaining unit employees through a reduction-in-force or contracting out of employees' functions. Such notification shall include the rationale for conducting the review and the possible impact upon bargaining unit employees. The Employer further agrees to comply with all laws and regulations concerning contracting out.

SECTION 2. Should any management efficiency review result in a decision to proceed with a comparison which would affect bargaining unit members, the Employer will furnish the Union a copy of the performance work statement upon which both Government and commercial cost estimates must be based, at the time it becomes available to prospective bidders. The Employer will advise the Union of any bidders conferences that are open to the public, and the Union shall have the right to attend such conferences and, at its option, submit oral or written comments bearing on the subject matter discussed.

SECTION 3. Management decisions resulting from cost comparisons may be appealed by the Union in accordance with appeals procedures of the Agency and OMB Circular A-76.

SECTION 4. Both parties agree to protect the confidentiality of the contracting out information (e.g. bid information, solicitations, Government cost estimates, performance work statements, specifications, solicitations, etc.) in accordance with governing laws and regulations .

SECTION 5. When the Employer determines that unit work will be contracted out, it will meet and negotiate with the Union concerning the impact on bargaining unit employees. The Employer agrees to consider actions (such as reassignment, realignment,

retraining, or other appropriate actions, etc.) to minimize displacement of affected employees in accordance with applicable laws and regulations.

## **ARTICLE 25: DISCIPLINE**

SECTION 1. The parties agree that at times it is necessary to take disciplinary action against an employee for misconduct. The parties also understand that the objective of discipline is to prevent prohibited activities and to motivate employees to conform to acceptable standards of conduct. The parties agree to the concept of private, progressive discipline designed to promote the efficiency of the service. Employees will be subject to disciplinary action only for just and sufficient cause.

SECTION 2. The Employer will consider the circumstances of each individual case, as well as those of similar cases, in order to make a fair decision regarding disciplinary action.

SECTION 3. Investigations and disciplinary actions shall be timely. Timeliness will be based on the circumstances and complexity of each case.

SECTION 4.

a. This Article applies to:

(1) actions based solely on misconduct, or

(2) actions involving both misconduct and performance

b. This Article does not apply to actions based solely on performance.

SECTION 5.

a. Oral admonishments shall be conducted in consideration of the individual employee's dignity. In this regard, the Employer will make a reasonable effort to admonish an employee in private.

b. An oral admonishment which is recorded by a supervisor in writing, and subsequently relied upon in a disciplinary or adverse action against an employee, shall be given to the employee upon request.

## SECTION 6.

### a. Suspension of Fourteen (14) Days or Less for Misconduct.

(1) The Employer shall provide the employee with reasonable advance written notice, stating the specific reasons for the proposed action, in sufficient detail to enable the employee to prepare a response. The Employer will provide the employee access to the documentation relied on to support the proposed action, which may include the names of individuals involved in supporting the charges.

(2) If the employee elects to make an oral response, the Employer will allow a verbatim transcript or tape recording to be made of the proceedings.

(3) The notice of proposed disciplinary action shall specify a reasonable time for the employee to respond which shall not be less than 24 hours. The response may be made orally or in writing, or both. The employee response may include any statement or material the employee believes is relevant to defending against the proposed action. The employee may be granted additional time to respond if warranted. An employee may be granted a reasonable amount of official time for preparing the oral and/or written response.

(4) The employee may be represented by an individual of his/her choice, including a Union representative.

(5) The Employer shall issue a final written decision on the proposed action as soon as practicable after receipt of the employee's response, normally within thirty (30) days. The decision shall state the specific reasons for the decision, and include a statement of the employee's entitlement to grieve. Such a decision will be made by a higher level official than the official who proposed the action.

### b. Removals, reduction in pay or grade, and suspensions of fifteen (15) days or more (except indefinite suspensions as provided in 5 CFR 752) for misconduct.

(1) The Employer shall provide the employee with at least thirty (30) days advance written notice, stating the specific reasons for the proposed action, in sufficient detail to enable the employee to prepare a response. The Employer will provide the employee access to the documentation relied on to support the proposed action, which may include the names of individuals involved in supporting the charges.

(2) If the employee elects to make an oral response, the Employer will allow a verbatim transcript or tape recording to be made of the proceedings.

(3) The notice of proposed disciplinary action shall specify a reasonable time for the employee to respond which shall not be less than seven (7) days. The response may be made orally or in writing, or both. The employee response may include any statement or material the employee believes is relevant to defending against the proposed action. The employee may be granted additional time to respond if warranted. An employee may be granted a reasonable amount of official time for preparing the oral and/or written response.

(4) The employee may be represented by an individual of his/her choice, including a Union representative.

(5) The Employer shall issue a final written decision on the proposed action as soon as practicable after receipt of the employee's response, normally within thirty (30) days. This shall state the specific reasons for the decision, and include a statement of the employee's entitlement to grieve or to appeal to the Merit Systems Protection Board. Such a decision will be made by a higher level official than the official who proposed the action.

#### SECTION 7.

a. When an employee designates the Union as his/her representative, the Union shall receive copies of all proposal and decision notices issued by the Employer. If an employee chooses not to designate the Union as his/her representative, the Employer will notify the Union of the circumstances of the case.

b. The Union shall be permitted to have an observer present at all hearings, proceedings, or conferences conducted by the Employer or appropriate authorities at which the bargaining unit member or his/her representative is present. In this regard, it is understood that the Union has an obligation to maintain strict confidentiality and that the Union recognizes the importance of the individual employee's dignity and right to privacy. However, this in no way bars attendance at such hearings, proceedings, and conferences.

SECTION 8. Exercise of grievance or appeal rights over disciplinary or adverse actions will not delay implementation of the actions.

**ARTICLE 26: PROTECTION AGAINST PROHIBITED PERSONNEL PRACTICES**

SECTION 1. The Employer agrees that personnel management will be implemented consistent with the Merit System principles contained in 5 U.S.C. 2301. The Employer will not engage in prohibited practices as defined in 5 U.S.C. 2302.

SECTION 2. Prohibited personnel practices include:

a. Discrimination for or against any employee or applicant for employment:

(1) On the basis of race, color, religion, sex, or national origin as prohibited under Section 717 of the Civil Rights Act of 1964;

(2) On the basis of age, as prohibited under Sections 12 and 15 of the Age Discrimination in Employment Act of 1967;

(3) On the basis of sex, as prohibited under Section 6(d) of the Fair Labor Standards Act of 1938;

(4) On the basis of handicapping condition, as prohibited under Section 50 I of the Rehabilitation Act of 1973; or

(5) On the basis of marital status or political affiliation, as prohibited under any law, rule, or regulation.

b. Soliciting or considering any recommendation or statement, oral or written, with respect to any individual who requests or is under consideration for any personnel action unless such recommendation or statement is based on the personal knowledge or records of the person furnishing it and consists of:

(1) An evaluation of the work performance, ability, aptitude, or general qualifications of such individual; or

(2) An evaluation of the character, loyalty, or suitability of such individual

c. Coercing the political activity of any person (including the providing of any political contribution or service), or taking any action against any employee or applicant

for employment as a reprisal for the refusal of any person to engage in such political activity;

d. Deceiving or willfully obstructing any person with respect to such person's right to compete for employment;

e. Influencing any person to withdraw from competition for any position for the purpose of improving or injuring the prospect of any other person for employment;

f. Granting any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any particular person for employment;

g. Appointing, employing, promoting, advancing, or advocating for appointment, employment, promotion, or advancement, in or to a civilian position any individual who is a relative (as defined in section 3110(a)(3) of Title 5) of such employee if such position is in the agency in which such employee is serving as a public official (as defined in section 311 O(a)(2) of Title 5) or over which such employee exercises jurisdiction or control as such an official.

h. Taking or failing to take a personnel action with respect to any employee or applicant for employment as a reprisal for:

(1) A disclosure of information by an employee or applicant which the employee or applicant reasonably believes evidences:

(a) A violation of any law, rule, or regulation; or

(b) Mismanagement, a gross waste of funds, and abuse of authority, or a substantial and specific danger to public health or safety, if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive Order to be kept secret in the interest of national defense or the conduct of foreign affairs; or

(2) A disclosure to the Special Counsel of the Merit Systems Protection Board, or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures, of information which the employee or applicant reasonably believes evidences:

(a) A violation of any law, rule, or regulation; or

(b) Mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health and safety.

i. Taking or failing to take any personnel action against any employee or applicant for employment as a reprisal for the exercise of any appeal right granted by any law, rule, or regulation.

j. Discriminating for or against any employee or applicant for employment on the basis of conduct which does not adversely affect the performance of the employee or applicant or the performance of others; except that nothing in this subsection shall prohibit an agency from taking into account in determining suitability or fitness any conviction of the employee or applicant for any crime under the laws of any State, or the District of Columbia, or of the United States;

k. Taking or failing to take any other personnel action if the taking of or failure to take such action violates any law, rule, or regulation implementing, or directly concerning, the merit system principles contained in the Civil Service Reform Act of 1978.

### SECTION 3.

a. An employee aggrieved under Section 2, above, may raise the matter under a statutory procedure or under the employee grievance procedure but not both.

b. Employees shall be deemed to have exercised their option under this Section at such time as when they initiate in a timely manner an action under the applicable statutory procedure, or when a grievance is filed in a timely manner, whichever occurs first.

## **ARTICLE 27: HOURS OF DUTY**

SECTION 1. Employees shall have the opportunity to take advantage of Alternate Work Schedules (AWS) and flexible work hours in accordance with District policy. Management agrees to allow employees to establish their own schedules and hours of duty to the maximum extent possible consistent with ensuring that the operational needs of the District are met. Supervisors may approve specific or short-term variations to an employee's work schedule. ·

SECTION 2. Whenever possible, Employer-directed changes of employees' work schedules will be by written announcement at least two (2) weeks in advance and will continue for at least two (2) pay periods. The employee will be advised of the reasons for the change in the schedule. The Employer will avoid unnecessarily disrupting employees' work schedules for the sole purpose of not paying overtime.

SECTION 3.

a. Both parties recognize that the use of alternative work schedules and flex-schedule can improve productivity and morale.

b. Both parties recognize that certain positions or organizational segments, because of the nature of the work performed, may not be suitable for alternative work schedules or flex-schedule. In this regard, the Employer may designate certain positions for which flex-schedule and/or alternative work schedules are not permitted, because of specific, job-related requirements of those positions. These requirements will be discussed with the employee.

c. If the Employer elects to terminate an employee's participation in Flex-schedule and/or AWS, the affected employee shall be notified in writing prior to the proposed effective date of termination which shall be no sooner than the beginning of the next complete pay period. This notification will state the specific reasons that clearly establish why Flex-schedule and/or AWS is no longer appropriate for that employee.

d. Employees may request changes in flex-schedule or alternative work schedules in accordance with District policy. By mutual agreement, in advance, between a unit employee and his/her supervisor, the scheduled day off can be changed in a pay period.

SECTION 4. A fifteen (15) minute rest period (total time away from the workplace) will be provided during the first and second half of each day, normally two (2) hours after the start of the workday and two (2) hours after lunch. The employee shall consume the rest period at the place of his/her choice. Rest periods cannot be used to lengthen lunch periods.

**ARTICLE 28: OVERTIME**

SECTION 1. This Article refers to the following types of overtime work:

a. Regular and recurring overtime work scheduled in advance; and

b. Irregular or occasional overtime which is intermittent and usually ordered on short notice.

SECTION 2. The assignment of overtime shall be based on factors which are pertinent to the work to be done, deadlines involved, and funds available. Overtime work is normally assigned to employees most familiar and most proficient with the work to be performed; usually by employees within that work unit. Assignments of overtime shall be made on a reasonable and equitable basis. Where overtime work is available, the Employer shall, to the extent practicable, see that all bargaining unit employees have an opportunity to participate in overtime work. The Employer will honor an employee's request to be excused from overtime whenever practicable.

SECTION 3. Anyone can request paid overtime, but employees at certain pay levels may be required to take compensatory time in accordance with the provisions of the Fair Labor Standards Act of 1938 as amended.

SECTION 4. The Employer and the employee are responsible for assuring that earned compensatory time credits are used within the prescribed time frame. If compensatory time credits are not used within the prescribed time periods, an employee shall receive paid overtime for the amount of compensatory time credits he/she has accumulated by the end of that period.

SECTION 5. Overtime may be scheduled and worked in quarter-hour increments. Quarter-hour increments must be fully worked to be credited as time worked except when the job is completed within a quarter-hour increment. In this event, any portion of a quarter-hour worked will be credited to the next higher increment.

SECTION 6. Each employee who works overtime shall be entitled to a rest break of fifteen (15) minutes for each four (4) hours of overtime. A rest break may be taken after the first two (2) hours of the overtime period, but cannot be taken at the end of the overtime period in order to extend the period of compensation.

SECTION 7. The Employer shall, to the extent practicable, provide employees with two (2) days advance notice of overtime assignments.

SECTION 8. Employees called back to work outside of and unconnected with their regular hours of work shall be paid for at least two (2) hours of work.

## **ARTICLE 29: LEAVE**

**SECTION 1. Annual Leave.** The use of earned annual leave is the right of each employee. The Employer and the Union acknowledge that scheduling of annual leave shall be based on the needs of the Wilmington District in accomplishing the mission of the agency. The Employer and the Union agree that it shall be the responsibility of the Employer and the employee to schedule annual leave in such a manner so as to avoid potential forfeiture of such leave to the maximum extent possible.

a. **Annual Leave for Short Periods.** Requests for annual leave for short periods will be accepted at any time and will be approved subject to the requirements of workload.

b. **Transfer Between Organizations.** In case of transfer of an employee from one organizational unit to another, previously scheduled annual leave shall be discussed between the new Employer and the employee for confirmation or rescheduling as necessary.

c. **Advance of Annual Leave.** The Employer will consider any written request by an employee for advance of annual leave up to an amount that can be earned by the end of the current leave year.

d. **Annual Leave for Religious Holidays.** A supervisor will give special consideration to a request by an employee applying for annual leave on a workday which occurs on a religious holiday associated with the religious faith of the employee.

e. **Forfeiture and Restoration of Annual Leave.** Unused accrued annual leave in excess of 240 hours (360 hours where applicable) will be forfeited at the end of the leave year. Forfeited annual leave may be restored if:

(1) The leave has been requested by the employee in writing before the beginning of the third pay period before the end of the leave year;

(2) It is approved by the supervisor in writing;

(3) The leave is canceled by the Employer due to mission-related exigency as approved by the District Engineer.

(4) It cannot be rescheduled during the remainder of the leave year.

f. **Requests for Annual Leave.** Except in the case of an emergency, annual leave must be requested in advance. An Employer's decision to grant or deny a request for annual leave or to cancel approval of such a request shall be based solely on workload considerations directly related to mission requirements. At the request of the affected employee, the Employer shall discuss the reason(s) for denying a request for annual leave or for canceling an approved annual leave request. It is the responsibility of the Employer, in consultation with the employee, to reschedule the use of annual leave for which a request has been denied or for which approval of a request has been canceled due to workload considerations and to ensure that the leave shall not be forfeited.

g. **Recall for Emergency Duty.** Should an employee be recalled for duty while on annual leave, the Employer will reimburse the employee in accordance with the provision of the Joint Travel Regulation (JTR).

## SECTION 2. Sick Leave.

a. **Use of Sick Leave.** The Employer shall approve the use of sick leave for an employee when such employee is impaired in the performance of his/her duties due to sickness, injury, pregnancy, or confinement, or for medical, dental, or optical examination or treatment. In addition, sick leave may be used when a member of the immediate family of the employee is afflicted with a contagious disease, as described in appropriate regulations, and requires the care and attendance of the employee, or where through exposure to a contagious disease, the presence of the employee at his/her work site would jeopardize the health of others.

b. **Responsibility to Notify Supervisor.** It is the responsibility of the employee to notify his/her immediate supervisor or the Employer's designee of the employee's unscheduled absence due to illness or other medical emergency as soon as possible after the usual and customary work arrival time for such employee, unless the employee is incapacitated. Requests for approval of sick leave for non-emergency medical, dental, or optical examinations or treatments shall be submitted as much in advance as possible.

c. **Medical Certificate Requirements.** Employer may require a medical certificate from an employee with an absence charged to sick leave in excess of three working days. An employee may provide a signed statement explaining the nature of his/her illness in lieu of a medical certificate when treatment of the illness does not require professional medical attention.

d. **Improper Use.** The Employer and the Union recognize the insurance value of sick leave and agree that conservation of sick leave is important so that it will be available in the event of extended illness or other medical emergency. Therefore, the Employer and the Union agree to work together to aid in eliminating unwarranted or improper use of sick leave.

e. **Sick Leave Restriction.**

(1) In those cases where the Employer has sound reason to believe that an employee is abusing sick leave, the Employer shall counsel the employee concerning such abuse, may issue a written notice of leave restriction, and/or take disciplinary action as appropriate. If a leave restriction notice is given to the employee, it shall include language stating that subsequent sick leave absences must be supported by a medical certificate which states the period of medical care and certifies, from a medical standpoint, that the employee's condition during the absence was such that the doctor or authorized practitioner considered the employee incapacitated for work. Abuse of sick leave shall not be determined solely on the basis of leave balance.

(2) All written notices of sick leave restrictions shall describe the frequency, pattern, and circumstances which led to the issuance.

(3) The notice shall be reviewed by the supervisor at the end of the notice period, not to exceed six (6) months, and shall be canceled if there is not just and sufficient cause to continue the leave restriction.

f. **Change of Annual Leave Status to Sick Leave.** An employee in an annual leave status may, upon notification to his/her supervisor, change his/her annual leave status to sick leave if he/she otherwise qualifies.

g. **Advancing Sick Leave.** An employee may request an advance of unearned sick leave in case of serious illness or disability. The Employer may advance up to 240 hours of sick leave, in accordance with applicable statutes and regulations, providing the employee has not established a pattern of sick leave abuse, and furnishes reasonable evidence of requirement for leave and of returning to work. In the event the Employer denies the advance of sick leave, the Employer will furnish the employee a written explanation.

h. **Family Friendly Leave.** Under terms of the Federal Employees Family Friendly Leave Act, PL 103-388, employees may use sick leave to provide care for a

family member required as a result of physical or mental illness, injury, pregnancy, childbirth, or medical, dental or optical examination or treatment; or to make arrangements necessitated by the death of a family member or to attend the funeral of a family member. Full-time employees may use up to a total of 104 hours per year for family care and bereavement purposes provided they maintain a minimum balance of 80 hours of sick leave, or up to 40 hours per year if they maintain a balance of less than 80 hours. The amount of sick leave which part-time employees may use under this program will be prorated on the amount of part-time hours worked in accordance with the provisions of the Act (e.g., an employee working 20 hours per week would be entitled to take up to 52 hours if they maintained a minimum balance of 40 hours).

The Family Friendly Leave Act defines "family member" as spouse and parents thereof, children, including adopted children, and spouses thereof, parents, brothers and sisters and spouses thereof, and any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

**SECTION 3. Leave Without Pay (LWOP).** Leave without pay is a temporary non-pay status and absence from duty which has been requested by an employee and approved by an Employer. LWOP is distinguished from Absence Without Leave (AWOL) by its permissive nature and approval. LWOP is normally granted to protect an employee's employment status during extended absences. Examples of such situations are:

- To seek other Federal employment when head of household (e.g. military spouse) is transferred.
- For an extended educational sabbatical.
- Pending a decision by the Office of Personnel Management on an application for disability retirement
- An employee cannot demand that he/she be granted LWOP as a matter of right, except in the case of (1) disabled veterans who are entitled to LWOP, if necessary, for medical treatment under EO 5396 and (2) reservists and National Guardsmen who are entitled to LWOP, if necessary, to perform military training duties under the provisions of Section 9(g) of the Military Selective Service Act of 1967.

a. **Procedures for Requesting Leave Without Pay.** Any request for LWOP must be in writing and must be submitted in accordance with applicable laws and

regulations. In considering any request for LWOP, Employer shall take into account whether or not approval of the request will adversely impact the work load of the employing activity. Employer will not unrealistically deny a request for LWOP. Except for exigent circumstances, Employer will not approve a request for LWOP in excess of one year.

b. **Approving Leave Without Pay.** Unless a local policy prohibits approval, LWOP may be granted whether or not the employee has accrued annual leave. LWOP should be approved when it is expected that the employee will return to duty and that at least one of the following benefits will result:

- Increased job ability
- Protection or improvement of employee's health
- Retention of an employee
- Support of best interests of the Government.

c. **Benefits During LWOP.** Employees in LWOP pay status shall accrue rights and privileges with respect to retirement status and appropriate coverage under the Group Life Insurance and Federal Employee's Health Benefits Program as permitted by law and regulation.

d. **Employees on LWOP With Regard to Union Business.** A Union representative may also request LWOP for the purpose of taking a full or part-time position with the AFGE, provided the Local President of the Union submits a written notification to Employer of the member's election or appointment to such position.

#### SECTION 4. **Other Leave**

a. **Court Leave.** If an employee is summoned for jury duty or jury qualification or as a witness in a non-official capacity in a judicial proceeding on behalf of a State, or local government, or on behalf of a private party when a party is the Federal, State, or local government, he/she shall be paid at his/her appropriate rate for time required from his/her normal work schedule to perform such duties and charged court leave for such time. When testifying on behalf of the U.S. Government, or on behalf of a State, or local government, or private party in an official capacity, the employee will be considered to be

in an official duty status and entitled to regular compensation without regard to any entitlement to court leave. Such time shall be limited to the time necessary, not to exceed eight (8) hours per day. A night shift employee who performs jury duty during the day will be granted court leave for his regularly scheduled night tour of duty and is entitled to the night differential while he/she is serving as juror. Any funds collected by the employee from the court while he/she is serving as a witness or juror will be turned over to the District's F&A Officer. When an employee is called for court duty, he/she shall promptly notify the Employer so that arrangements may be made for his/her absence. Upon completion of his/her service, the employee shall present to the Employer satisfactory evidence of the time served on such duty.

**b. Court Duty and Return to Work.** If an employee is excused from court duty for one (1) day or a substantial part of a day, he/she is expected to return to duty unless this would be impractical. In those cases where an employee is excused for court duty for one (1) day or for a substantial part of a day, the employee will phone his/her supervisor who will determine whether or not the employee will be required to return to work. In making such determination, the supervisor will take into consideration the amount of time remaining in the workday; special need for the employee's services; the distance involved; and the type of transportation available. An employee will not be required to return to work if one (1) hour or less of the workday remains.

**c. Military Leave.** Any employee who is a member of the National Guard or a Reserve component of the Armed Forces shall be entitled to military leave as provided for in 5 U.S.C. 6323, as amended, and implementing regulations. Approval of the military leave provided in the foregoing shall be based on the copy of the orders directing the employee to active duty and certification of attendance by an appropriate military authority. In addition, employees who are called for a period of training or a period of active duty beyond those provided for in the above may be granted annual leave or . LWOP, pursuant to appropriate regulations. Any employee contemplating the use of military leave shall advise the Employer as soon as possible of the anticipated dates of such leave.

**SECTION 5. Family and Medical Leave Act (FMLA).** The Employer and the Union recognize that being a member of a family carries with it certain responsibilities that cannot be ignored, or, in some instances, postponed .. The Employer and the Union also recognize that prolonged or unscheduled absences can have a detrimental impact on mission accomplishment. Therefore, the Employer and the Union agree that the policy for approving or granting leave to an employee for carrying out parental and family responsibilities under the terms of the Family and Medical Leave Act (PL IOJ-3) should be as compassionate and flexible as possible, consistent with mission requirements.

a. Under the terms of the Family and Medical Leave Act employees are entitled to 12 workweeks of unpaid leave during any 12-month period for the following purposes:

- The birth of a son or daughter of the employee and the care of such son or daughter;
- The placement of a son or daughter with the employee for adoption or foster care;
- The care of a spouse, son, daughter, or parent of the employee who has a serious health condition; or
- A serious health condition of the employee that makes the employee unable to perform the essential functions of his or her position.

Under certain conditions, FMLA leave may be taken intermittently, or the employee may work under a work schedule that is reduced by the number of hours of leave taken as family and medical leave. An employee may elect to substitute other paid time off, as appropriate, for any unpaid leave under the FMLA. FMLA leave is in addition to other paid time off available to an employee.

b. Upon return from FMLA leave, an employee must be returned to the same position or to an "equivalent position with equivalent benefits, pay status, and other terms and condition of employment."

c. An employee who takes FMLA leave is entitled to maintain health benefits coverage. An employee may pay the employee share of the premiums on a current basis or pay upon return to work.

d. The employee must provide notice of his or her intent to take family and medical leave not less than 30 days before leave is to begin or as soon as is practicable.

e. An agency may request medical certification for FMLA leave taken to care for an employee's spouse, son, daughter, or parent who has a serious health condition or for the serious health condition of the employee.

**SECTION 6. Voluntary Leave Transfer Program.** The Employer and the Union recognize the existence of the Voluntary Leave Transfer Program and agree to encourage the effective utilization of the program in accordance with applicable laws and regulations. This program permits employees to donate accrued leave (currently only

annual leave) to other employees who have insufficient leave available to cover absences from work because of a medical emergency involving the employee or a family member.

**SECTION 7. Absence Without Leave (AWOL).** AWOL is absence from duty which is not authorized or approved, including leave which is not approved until required documentation is submitted or for which a leave request has been denied. AWOL, in itself, is not a disciplinary action, but continued use of AWOL can be the basis for disciplinary action up to and including removal from the Government.

## **ARTICLE 30: EXCUSED ABSENCES**

### **SECTION 1. Labor-Management Relations Training Hours**

(a) Employer agrees to consider granting excused absence in accordance with DOD Financial Management Regulations to employees who are recognized Union officers and stewards for the purpose of attending Union-sponsored and other training sessions, provided the training is of mutual benefit to the Employer and the Union. The purpose of such training is to provide information, briefing, or orientation relating to matters within the scope of the statute and rules and regulations issued thereunder.

(b) Requests for excused absences for such purposes must be submitted in writing by the Union President to the Civilian Personnel Officer, and should be submitted at least two weeks in advance of the scheduled beginning date of the training. The request will contain information about the duration, purpose, and nature of the training. Official time may not be granted for training if the primary purpose is to train or inform employees as to solicitation of memberships and dues, other internal Union business, or representing the Union in the art of collective bargaining.

**SECTION 2. Emergencies.** It is understood that the Employer will consider granting excused absence during emergency situations. Such situations may include, but are not limited to: extreme weather conditions; disaster such as fire, flood, hurricane, or other natural phenomena. The Employer will excuse as many employees as possible, consistent with essential work requirements. In an emergency situation occurring before the start of the work day, the Employer may close all or part of the agency. Excused absences without charge to leave will be granted for all employees affected by closure of all or part of the District, whether or not leave was previously approved. (Leave cannot be charged for non-work days even if previously approved.)

**SECTION 3. Voting.** If there is insufficient time prior to or after the close of an employee's work day to travel to the polling place and vote, excused absence may be granted for the minimum amount of excused absence necessary.

**SECTION 4. Donation of Blood.** Employees who, without pay or compensation, volunteer as donors to blood banks or to needy individuals will be excused from work subject to workload requirements without charge to leave or loss of pay for a period of time up to four (4) hours for the time necessary to donate the blood, for recuperation following blood donation and for necessary travel to and from the donation site.

## **ARTICLE 31: OFFICIAL TIME**

### **SECTION 1.**

a. The parties agree that the use of official time by the Union is necessary in order for the Union to properly carry out its representational functions. In this sense, it is understood that the use of a reasonable amount of official time, as agreed to below, shall serve to further a sound labor-management relationship.

b. An individual's entitlement to official time under this Article is limited to those situations in which the individual is otherwise in a duty status. Reasonable efforts will be made to limit the instances where use of non-duty time is required.

c. Overtime will not be used for representational duties.

**SECTION 2.** Union representatives employed by the Wilmington District shall be granted official time for preparation for and attendance at meetings (including time to travel to and from such meetings) described below:

a. meetings and negotiations with the Employer concerning personnel policies, practices, or other general conditions of employment or any other matter covered by 5 USC 7114(a)(2)(A);

b. meetings to discuss or present Unfair Labor Practice charges or unit clarification petitions;

c. replies to notices of proposed disciplinary, adverse, or unacceptable performance actions;

d. meetings for the purpose of presenting reconsideration replies in connection with the denial of within-grade increases;

e. examinations of employees in the unit by a representative of the Employer in connection with an investigation if:

(1) The employee reasonably believes that the examination may result in disciplinary action against the employee; and

(2) The employee requests representation;

f. grievance meetings and arbitration hearings;

g. meetings of committees and/or panels on which Union representatives are authorized membership.

h. to confer with employees with respect to any matters for which remedial relief may be sought pursuant to the terms of this Agreement;

i. to prepare witnesses;

j. to review documents that are not available during non-duty hours;

k. to meet with District and National Staff Representatives of the Union in connection with a grievance, arbitration, or ULP charge;

l. to participate in an FLRA investigation or hearing preparation as a representative of the Union;

m. to prepare minutes of Labor-Management Partnership Council meetings.

n. to participate in training designated primarily to further the interest of Government by bettering the labor-management relationship; and

o. to prepare appeals and attend meetings and/or hearings in connection with statutory or regulatory appeal procedures in which the Union is designated as the representative.

**SECTION 3.** An employee who is the subject of an examination in connection with an investigation, will receive official time for attendance at the following:

SECTION 3. An employee who is the subject of an examination in connection with an investigation, will receive official time for attendance at the following:

- a. grievance meetings;
- b. arbitration hearings;
- c. oral reply meetings for a notice of proposed adverse, disciplinary, or unacceptable performance action;
- d. an adverse action hearing;
- e. other statutory or regulatory appeal hearings;
- f. meetings for the purpose of presenting reconsideration replies in connection with the denial of within-grade increases; and
- g. an examination by a representative of the Employer in connection with an investigation which may lead to disciplinary action.

SECTION 4. Employees will receive official time when being interviewed by:

- a. a designated Union representative who is using official time pursuant to Sections 2, or 3 above; and
- b. by a District, National, or designated representative of the Union in connection with a matter for which remedial relief may be sought pursuant to this Agreement.

SECTION 5. Union representatives and employees who wish to use official time under this Article will file a request with their immediate supervisors in a timely manner using SAW Form 633. The request will include the reason for the need, the location of any meeting, hearing, etc., and the approximate time when the representative or employee will return to duty. The immediate supervisor will approve appropriate use of such official time unless there exists an overriding work priority. In any situation in which the Employer asserts the existence of an overriding work priority which would delay the Union representative's or employee's use of time as contained in this Article, all time limits and actions shall be automatically extended for a time equal to the delay. Employee(s) and Union representatives who use official time under this Article will inform their immediate supervisor when they return to duty.

SECTION 6. SAW Form 633, a copy of which is attached as Appendix A, shall be used to record use of official time. The original of the completed form will be forwarded through supervisory channels to CPAC. CPAC will maintain the file copies, which will be made available to the Union upon request.

SECTION 7. Internal Union business may not be conducted during official time. Internal Union business includes, but is not limited to, the process of electing Union officials; collection of dues; solicitation of new members; preparation and distribution of internal newsletter or literature soliciting membership; and meetings among Union members not directly involved in the representation of one or more employees. Such business must be conducted during non-duty hours or while in an approved annual leave status.

SECTION 8. Use of official time for activities not authorized by this Article or for other than the purpose requested could result in disciplinary action. If the Employer has reason to believe that official time has been or is being used improperly, it agrees to address its concerns with the Union in an effort to reach a mutually satisfactory resolution before taking any disciplinary action.

## **ARTICLE 32: TRAVEL**

SECTION 1. Employees shall not be required to travel except under the conditions and procedures prescribed by Department of Defense Joint Travel Regulations. No employee shall be required to travel on weekends or holidays unless traveling at such time is essential because of mission requirements. In the event that travel on weekends or holidays is required, the affected employee shall be entitled to pay, per diem, and travel allowances in accordance with applicable regulations and laws.

a. If circumstances require an employee's presence on Monday, too early to permit travel that day, the employee should perform the travel on the preceding day (Sunday), leaving home or post-of-duty at a reasonable time. If the employee prefers, travel may be permitted during duty hours on the preceding Friday. In this event, travel reimbursement will start with the departure time, or as if the departure was made on Sunday, whichever is more advantageous to the Government, total travel and per diem costs included. Upon request, employees who are required to travel during non-duty hours will receive the written reasons why such travel was required at those hours.

b. The Employer shall give as much notice as practicable to employees selected for assignments involving travel which requires advance planning.

c. If a temporary duty assignment requires a traveler to be away for thirty (30) or more calendar days, the Employer may, in accordance with applicable decisions, laws, or regulations, and upon request of the employee, authorize the traveler to return to the official duty station during non-duty hours at intervals specified on the Travel Orders.

SECTION 2. For employees covered under FLSA, the only travel time on a non-workday that normally can be counted as hours worked is travel that occurs within the hours that would be regular duty hours if it were a regular workday. For travel time outside regular duty hours to be considered "hours of work," the purpose or condition of the travel must satisfy 5 USC 5542(b)(2).

SECTION 3. Where suitable meals cannot be obtained while on TDY, convenient to the duty site or place of residence, travel expenses to and from a restaurant may be authorized separate from per diem in accordance with applicable laws and regulations.

SECTION 4. Official travel will be by the method of transportation most advantageous to the Government, cost and other factors considered. Methods include: common carrier, public transportation, Government-furnished vehicles, privately owned vehicles, and rental of commercial vehicles. An employee is entitled to use a privately owned vehicle in lieu of a Government-furnished vehicle subject to mileage reimbursement criteria prescribed in Joint Travel Regulations. No employee will be required to use their privately owned vehicle in the course of business unless such use was made a condition of employment.

#### SECTION 5

a. When the use of a privately owned conveyance is advantageous to the Government, the employee will be reimbursed at the maximum standard rate allowed by law, rule, or Government-wide regulation.

b. Reimbursement will be authorized in accordance with applicable laws, rules, and Government-wide regulations for the use of public transportation, including taxi cabs, to and from an employee home and office/motor pool when official travel requires use of Government transportation and the traveler will remain away from the duty station overnight.

SECTION 6. Approved Government credit cards may be used by employees for travel advances. Any ATM charges incurred in the process of obtaining these advances will be reimbursed provided these fees are authorized on the travel order.

SECTION 7. If, because of non-availability of lodging in the locality in which the employee is performing temporary duty, s/he is required to stay in an adjacent locality, the employee will be paid the per diem for the location in which s/he actually stays.

SECTION 8. The Employer agrees to make a good faith effort to process properly completed travel vouchers in a timely manner. In the event an employee is unable to pay their Government travel credit card bill due to failure of the Employer to reimburse expenses in a timely manner, the Employer will intervene with the travel charge card company to preclude damage to the employee's credit standing.

SECTION 9. The Employer agrees to pay travel expenses and per diem for employees in accordance with Volume II, Joint Travel Regulations and other applicable regulations, in connection with approved travel for representational activities as described in Article 31, Official Time.

### **ARTICLE 33: LIABILITY OF EMPLOYEES DRIVING GOVERNMENT VEHICLES**

SECTION 1. The Employer and the Union recognize that an employee who drives a Government vehicle in a negligent manner has the potential for incurring liability either to the United States for damage to the vehicle itself or to third parties for personal injury or property damage attributable to that negligence.

SECTION 2. The potential liability of an employee to the Government is governed by; AR 735-5. Chapter 13 of this regulation covers the Report of Survey process, whereby damage to Government property is investigated and a decision made about the extent, if any, to which the employee may be held personally accountable for the damage. The employee's right to submit a rebuttal statement and other relevant evidence is assured by this regulation. The Employer agrees that it will adhere to the letter and spirit of this regulation in an effort to achieve a fair liability determination.

SECTION 3. The parties recognize that the law presently provides that an employee generally cannot be found liable to third parties for damage attributable to the employee's negligence when that negligence occurs within the scope of the employee's Government employment. In that event, the United States generally assumes whatever liability may arise. The Employer can make a recommendation about whether an employee is acting within the scope of his or her employment, but the decision is ultimately one made by the Department of Justice and/or the federal courts. The Employer agrees to give the employee a full opportunity to provide information relative to its recommendation.

## **ARTICLE 34: IMPACT AND IMPLEMENTATION BARGAINING**

SECTION 1 - The parties agree that matters subject to negotiation are personnel matters, practices, and policies that affect working conditions.

SECTION 2 - In the event that the Employer proposes changes in conditions of employment which involve management rights reserved under 5 USC 7106 or which are otherwise not negotiable, the following procedures shall apply with regard to negotiations concerning the impact and implementation [5 USC 7106(b)(2) and (3)] of those changes:

a. Except as provided for elsewhere in this Agreement, the Employer shall notify the Union prior to the planned implementation date of any proposed non-negotiable change in conditions of employment, giving the Union ten (10) calendar days from the date of receipt of the notification, to deliver to the Employer its request for impact and implementation bargaining.

b. If the Union does not request impact and implementation bargaining within the time limit, the Employer may implement the proposed changes.

c. Upon timely request by the Union, the Employer shall enter into good faith negotiations within ten (10) calendar days of receipt of the request, regarding the impact and implementation of the proposed changes. No change may occur until conclusion of good faith bargaining by the parties, except in those cases where Management determines an overriding exigency dictates earlier implementation in accordance with appropriate authorities.

d. If, after thirty (30) calendar days from the Union request for negotiations, agreement has not been reached on impact and implementation bargaining proposals, the Union agrees that the Employer may implement its last, best offer on an interim basis, for a period of ninety (90) calendar days. The parties agree to conduct negotiations at least once a week during the thirty (30) day period from the Union request for negotiations, as well as during the ninety (90) day interim period. If agreement is not reached before the expiration of the interim implementation period, and the following procedures will be applied in sequence:

(1) The services of the Federal Mediation and Conciliation Service (FMCS) will be requested. If agreement is not reached with the assistance of a mediator:

(2) The Federal Services Impasse Panel (FSIP) will be asked to authorize binding arbitration in order to settle the impasse.

SECTION 3. Any costs to resolve an impasse under this Article will be equally shared by both parties.

## **ARTICLE 35: GRIEVANCE PROCEDURE**

SECTION 1. The purpose of this Article is to provide a mutually acceptable method for the prompt and equitable settlement of grievances for employees for whom AFGE has been recognized as exclusive representative.

SECTION 2. A grievance means any complaint:

a. By a unit employee concerning any matter relating to the employment of the employee; or

b. By the Union concerning any matter relating to the employment of any unit employee; or

c. By a unit employee, the Union, or the Employer concerning any claimed violation, misinterpretation, or misapplication of any law, rule or regulation affecting conditions of employment,

d. Except that it shall not include a complaint concerning -  
(  
    1) any claimed violation relating to prohibited political activities; or  
    (2) retirement, life insurance or health insurance; or  
    (3) a suspension or removal for national security reasons, Section 7532 of 5 USC; or  
    (4) any examination, certification or appointments; or  
    (5) the classification of any position which does not result in the reduction in grade or pay of an employee; or  
    (6) the separation of employees who are serving under a probationary or trial period, or on a term or temporary appointment, or as a Student Trainee (Co-op); or  
    (7) the content of published Government-wide regulations and policy; or

(8) nonselection for promotion from a group of properly ranked and certified candidates; or

(9) preliminary notice of an action which would otherwise be grievable or appealable if effected; or

(10) determinations concerning any type of performance and/or incentive awards (including suggestions, inventions, and honorary awards), quality step increases, recruitment bonuses, relocation bonuses, and/or retention allowances; or

(11) termination of a detail, temporary promotion, or other temporary personnel actions

SECTION 3. This grievance procedure shall be the exclusive procedure available to the Union, the Employer, and employees in the bargaining unit for resolving such grievances, except that:

a. An aggrieved employee affected by alleged discrimination, a removal, suspension of more than 14 days, or a reduction in grade or pay based on unacceptable performance, or other adverse action may, at his/her option, raise the matter under a statutory appellate procedure or the negotiated grievance procedure, but not both.

b. An employee shall be deemed to have exercised his/her option under this section when he/she files a timely notice of appeal under the appellate procedure or files a timely grievance in writing under the negotiated procedure, whichever event occurs first.

SECTION 4. In the event either party should declare a grievance non-grievable, or non-arbitrable, the original grievance shall be considered amended to include this issue. Either party agrees to raise any question of grievability or arbitrability of an issue prior to the time limit for the written answer in Step 3 of this procedure. All disputes of grievability or arbitrability shall be referred to arbitration as a threshold issue in the related grievance.

SECTION 5. Most grievances arise from misunderstanding or disputes which can be settled promptly and satisfactorily on an informal basis at the immediate supervisory level. The Employer and the Union agree that every effort will be made by the Employer and the aggrieved party(s) to settle grievances at the lowest possible level, i.e., immediate supervisor. Reasonable time during working hours will be allowed for employees and Union representatives to present and process grievances.

SECTION 6. The following procedure will be followed in processing employee grievances with Union representation.

Step 1:

a. The grievance may be submitted orally or in writing by the grievant and/or their designated representative to the employee's immediate supervisor. The grievance must be initiated within fifteen (15) calendar days from the date of the incident that gave rise to the grievance or from the date the grievant became aware of the incident but in no event more than 45 calendar days. The grievance must be specific regarding the nature of the complaint, to include date and desired remedy. The employee's immediate supervisor will meet the aggrieved employee and, if requested by the employee, his/her representative to resolve the concern and will give a decision to the employee within fifteen (15) calendar days from the date of the grievance was received. This decision will be in writing, if the grievance was submitted in writing.

b. When two or more employees have an identical or similar grievance, the Union may select one case for processing under this procedure and the results will apply to all employees concerned. The Union will provide the Employer, in writing, the employee's grievance that will be processed and the names of the other employees concerned. Such notification to the Employer will be made prior to entering a formal grievance at Step 2.

Step 2: If resolution is not reached during Step 1, the grievant and/or their representative may submit the grievance, in writing, to the Division/Office Chief within fifteen (15) calendar days from receipt of the decision. If the Division/Office Chief is the immediate supervisor, the grievance will be submitted to the next higher Management Official. The Division/Office Chief or Management Official has fifteen (15) calendar days to meet with the grievant, and if requested by the employee, his/her representative, to resolve the concern and provide the employee a written decision on the issue.

Step 3: If no mutually satisfactory settlement is reached as a result of the second step, the grievant may submit the grievance, in writing, to the District Engineer, or the District Engineer's designee, within fifteen (15) calendar days of receipt of the decision of step 2. The District Engineer, or in the designee, will meet with the grievant and, if requested by the employee, his/her representative to resolve the concern and render a decision, in writing, within fifteen (15) calendar days.

Step 4: If no mutually satisfactory settlement is reached in step 3, the grievant may, through the Union, refer the matter to arbitration within fifteen (15) calendar days of the receipt of the District Engineer's or his designee's decision.

All time limits in the Section may be extended by mutual consent of the parties to this agreement. In any of the above steps, the Management Official may have a member of the CPAC present, if desired, when meeting with the grievant.

SECTION 7. If the prescribed, or extended, time limits are not met by management officials at any time, the Union or the employee may proceed to the next step. If the employee and/or Union fails to pursue a grievance within the time limits so specified, the grievance will be considered resolved in the last step.

SECTION 8. An employee may withdraw the grievance in writing to the Union and Employer at any time before a decision is rendered; however, he/she may then not reinitiate the same grievance.

SECTION 9. In the event that an employee does not choose to have Union representation throughout the grievance procedure, a Union representative will have the right to be present at the adjustment of the grievance at any step.

### **ARTICLE 36: ARBITRATION**

SECTION 1. If the Employer and the Union fail to satisfactorily resolve a grievance, either party may invoke arbitration by informing the other in writing within fifteen (15) calendar days after receipt of the final response of either the agency or the Union.

SECTION 2. Only the Union or the Employer may invoke arbitration. No employee may singularly bring a grievance to arbitration without the Union's sanction.

SECTION 3. After written notice by either party to the other that arbitration is desired, either party may request the Federal Mediation and Conciliation Service to submit a list of five (5) impartial persons qualified to act as an arbitrator. If agreement is not reached, beginning with the moving party, each side shall strike one name from the list in turn. The name remaining, after each has struck two, shall be selected as the arbitrator.

SECTION 4. The parties shall jointly prepare the issue to be decided by the arbitrator. If the parties cannot agree on the issue to be resolved, each side may submit a summary of the issue to be ultimately decided by the arbitrator. Nothing in this agreement shall preclude the parties from resolving the grievance during any of these meetings. The arbitrator will hear the case and render an award.

SECTION 5. Arbitration hearings will be held during regular duty hours. Employees who are aggrieved and necessary Employee witnesses will normally be able to participate without charge to leave.

SECTION 6. The costs of the arbitrator and his/her expenses will be borne equally by the Union and the Employer.

SECTION 7. Either party may appeal the arbitrator's decision to the FLRA in accordance with its regulations.

### **ARTICLE 37: UNFAIR LABOR PRACTICE**

SECTION 1. The Union and the Employer recognize the mutual benefits to be gained from in-house resolution of Unfair Labor Practice (ULP) charges. Therefore, the Employer and Union representatives shall meet at the level where the issue occurred within fifteen (15) calendar days prior to the filing of the alleged ULP in an effort to resolve the issue. The responding party will issue its written position concerning the charge within ten (10) calendar days of the meeting.

- a. The party alleging the ULP will notify the other party in writing of the circumstances.
- b. Failure to meet within fifteen (15) calendar days or to respond in writing Within ten (10) calendar days will be considered an exhaustion of internal remedies. By mutual agreement in writing, time limits may be extended.
- c. If the respondent's reply is not acceptable, the charging party may immediately file a formal charge with the FLRA under 5 CFR 2423.

SECTION 2. No part of the Article shall be construed as a waiver of either party's right to file a ULP charge in cases where the issue is unresolved and the statutory time limit (180-days) would otherwise be violated.

### **ARTICLE 38: DUES WITHHOLDING AGREEMENT**

SECTION 1. The Employer agrees to honor Union and unit employee requests for Union dues deduction. Unit employees shall be eligible for dues deduction provided they are members in good standing of the Local; have completed Standard Form 1187, Request and Authorization for Voluntary Allotment of Compensation for Payment of employee

Organization Dues; and are entitled to sufficient compensation to cover the authorized allotment.

SECTION 2. The Union agrees to:

- a. Inform and educate its bargaining unit members as to the nature of the dues deduction system.
- b. Distribute the Standard Form 1187 to eligible employees and process completed forms according to the provision of this Article.
- c. Through its authorized agent, complete Part A of Standard Form 1187 and submit completed forms to the CPAC of the Employer.
- d. Establish amount of dues to be withheld on a bi-weekly basis.
- e. Advise the Employer in writing of any change in the bi-weekly dues to be withheld from member's pay.
- f. Not normally effect more than one (1) change to the dues structure within any 12 month period beginning on the date of the most recent change.
- g. Advise the Employer if a member in good standing ceases to be a member.

SECTION 3. The Employer agrees to process voluntary allotment of dues in accordance with this agreement and to withhold dues on a bi-weekly basis. The Employer will not delay implementation of an employee's deduction request or change to the amount of dues withholding as certified by the Union. New deduction requests and changes to the amount of bi-weekly dues of members will be processed by the Employer in a timely manner. Should the Employer believe an employee who has executed a Standard Form 1187 is not eligible for dues deduction, the Union will be promptly advised and the parties shall seek agreement as to the matter. A voluntary allotment shall be terminated upon:

- a. Loss of exclusive recognition by the Union;
- b. Receipt of notice from the Union as described in this memorandum;
- c. Separation of the employee for any reason including death or retirement;

- d. Transfer of the employee outside the Union's recognized bargaining unit;
- e. Termination of this agreement between the parties; or

f. Submission by the Employee of a properly executed form 1188 to the CPAC requesting that his/her dues be terminated. Any such form, or substitute, shall only be honored once a year on the anniversary date of the first deduction from the affected employee's pay. Such requests shall not be accepted by the office any earlier than ten (10) days immediately preceding the anniversary date. Requests submitted before that date shall be returned to the employee with an explanation as to the provisions of this section. Any Standard Form 1188 shall be date-stamped as to receipt and a copy provided the Union one (1) week after the effective date of cancellation of the allotment.

#### SECTION 4.

a. The Employer agrees to remit the total amount due to the Union, to such official as it may designate in writing, in a timely manner, in accordance with the procedures established by the Defense Finance and Accounting Service. The remittance shall include a statement of remittance advice containing:

- (1) The name of the Local;
- (2) The specific pay period covered;
- (3) The name of each employee from whom dues were withheld and the amount of dues withheld for each person;
- (4) The name of each employee who, although on dues deduction, did not have dues withheld;
- (5) The total amount of dues withheld by the Employer which shall not, except upon express approval by the Union, increase or decrease the amount of dues withheld from its members.

b. In the event an employee who is on dues deduction is suspended, carried in a leave without pay status affecting his dues deduction, or removed from his position and thereafter reinstated or otherwise made whole as a result of a grievance or appeal, upon written request of the employee, the Employer shall:

(1) Compute the amount of any Union dues that would have been paid the Union but for the overturned action;

(2) Subtract the amount of dues from any back pay to which the employee would be entitled;

(3) Remit to the Union the amount of dues covering the relevant period and continue the employee on dues deduction.

SECTION 5. Disputes concerning the obligation to timely deduct and remit dues deductions shall, at the option of the Union, be pursued either under the Negotiated Grievance Procedure or the provisions at Title 5, United States Code, Chapter 71, Section 7116.

### **ARTICLE 39: PRINTING AND PUBLISHING THE AGREEMENT**

The parties agree to share equally the cost of initial publication of this agreement. The Union will be responsible for providing copies of the agreement to shop stewards, Union officials, and all members of the bargaining unit. The Employer will be responsible for providing copies of the agreement to supervisors and management officials. The parties will mutually determine size, format, and the number of agreements to be printed prior to final negotiations.

### **ARTICLE 40: DURATION OF AGREEMENT**

SECTION 1. This Agreement shall be executed when signed by the Union President and the District Engineer. This Agreement shall become effective only after review and approval by authority delegated by the Secretary of the Army. If the agreement is not approved or disapproved within 30 days, the Agreement shall take effect and shall be binding on both parties subject to the provisions of Title 5, Chapter 71, and any other applicable laws and regulations.

#### **SECTION 2.**

a. This Agreement shall remain in effect for three (3) years from its effective date.

b. It shall continue in effect from year to year thereafter unless either party shall give to the other party written notice of intention to terminate or re-negotiate this

Agreement. This notice must be provided no more than 120 days and no less than 60 days prior to its anniversary date.

c. Where notice is served prior to the anniversary date to re-negotiate this Agreement in its entirety, negotiations shall commence within thirty (30) calendar days after receipt of such notice by either party from the other. This time limit may be extended by mutual consent of both parties.

d. The parties further agree that this Agreement shall terminate if the Union loses its status as exclusive representative of the unit of recognition described in this Agreement.

### SECTION 3.

a. After this Agreement is in effect for 18 months, either party may request reconsideration of any Article or Articles. Such request will be referred to the Labor-Management Partnership Council (LMPC) for discussion and possible resolution. Based on the recommendations of the LMPC, or failure to reach consensus, Articles thus referred will be re-negotiated. Any Article may be opened at any time for amendment by mutual consent of both parties.

b. In the event any proposal for negotiations is declared by the Employer to be non-negotiable, the Union may refer the matter to the FLRA,. Should the FLRA declare the issue to be negotiable, negotiations shall commence within 30 days of notification of that decision.

## APPENDIX A

# RECORD OF OFFICIAL TIME USAGE

Employee Name \_\_\_\_\_

Date \_\_\_\_\_

From/To (Planned) \_\_\_\_\_

From/To (Actual) \_\_\_\_\_

The purpose of the form is to record the use of official time granted for representational functions. Representational functions are those authorized activities undertaken by employees on behalf of other employees pursuant to such employee's right to representation under statute, regulations, executive order, or the terms of a collective bargaining agreement.

Using this form, Union officials and other employee representatives will request permission of their immediate supervisor prior to engaging in any type of representational function. The supervisor will grant permission if possible, or if not, will provide a firm time when official time will be authorized. When the Union official returns, he/she will note actual times on this form and give a copy to his/her supervisor, who will forward it to the Personnel Office (CPAC).

## 1 **Category I. Contract Negotiations**

(Including time spent with FMCS and FSIP and FLRA negotiability dispute proceedings and in preparation for negotiation.)

A. Basic, Renegotiation or Reopener Negotiations \_\_\_\_\_ hrs.

B. Midterm Negotiations

(All negotiations other than those covered in Category I.A; including formal negotiations over a proposed change in activity policy, informal negotiations, and impact and implementation bargaining.) \_\_\_\_\_ hrs.

## 2. **Category II. Ongoing Labor-Management Relationship**

(Including labor-management committees, consultation, OSHA walk-arounds, FLRA unfair labor practice and representation proceedings, labor relations training for union representatives, preparation of union reports under 5 USC 7120 (2), formal and informal meetings, "Weingarten"-type meetings, preparation for meetings, and any investigation/preparation time allowed by the negotiated agreement or controlling regulations.) \_\_\_\_\_ hrs.

## 3. **Category III. Grievance and Appeals**

(Including serving as a witness to third-party proceedings and investigation/preparation time.)

A. Grievance and Arbitration Under the Negotiated Agreement \_\_\_\_\_ hrs.

B. All other Grievances and Appeals hrs.

(Including grievances under the DA grievance procedure, appeals to the MSPB, EEO complaints, OSHA complaints, and any other complaints and appellate processes.) \_\_\_\_\_ hrs.

## 4. **Category IV. Travel and Per Diem**

A. Labor-Management Relations

(Costs associated with functions reported under Categories I, II, and III.A.) \_\_\_\_\_ hrs.

B. All Other

(Costs associated with functions reported under Category ID.B.) \_\_\_\_\_ hrs.

\_\_\_\_\_  
Supervisor Name/Office/Date

FORWARD COMPLETED FORM TO PERSONNEL OFFICE (CPAC)