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Union: **Lake Mohegan Professional Firefighters Association, IAFF**

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October 17, 2006

Hon. Michael R. Cuevas, Chairperson
Public Employment Relations Board
State of New York
80 Wolf Road
Albany, NY 12205-2604

Re: Lake Mohegan Fire District
PERB Case No. U-26743

Dear Mr. Cuevas:

Pursuant to your letter dated October 10, 2006, we enclose for your records a copy of the current collective bargaining agreement between Lake Mohegan Fire District and Lake Mohegan Professional Firefighters, Inc., Local 2956, I.A.F.F. covering the period January 1, 2000 through December 31, 2005.

Very truly yours,


Richard K. Zuckerman

RKZ:rf
Enc.

05/17/2

COLLECTIVE BARGAINING AGREEMENT

BY AND BETWEEN

THE LAKE MOHEGAN FIRE DISTRICT

AND

THE LAKE MOHEGAN PROFESSIONAL
FIREFIGHTERS INC., LOCAL 2956, I.A.F.F.

EFFECTIVE JANUARY 1, 2000

THROUGH DECEMBER 31, 2005

TABLE OF CONTENTS

<u>Title</u>	<u>Article No.</u>	<u>Page</u>
AGREEMENT AND CONTRACT	XX	14
ANNUAL LEAVE	VIII	4
ASSOCIATION RECOGNITION	I	1
ASSOCIATION RELEASE TIME	XV	10
DURATION OF CONTRACT	XVI	10
EMPLOYEE ASSISTANCE PLAN	XXIII	23
EMT CERTIFICATION	VII	3
GENERAL MUNICIPAL LAW SECTION 207-A PROCEDURE	XIV	24
GRIEVANCE PROCEDURE	XVII	10
HOLIDAYS	X	6
HOSPITALIZATION AND DENTAL	IX	5
LABOR-MANAGEMENT COMMITTEE	XIX	14
LONGEVITY	IV	2
ON DUTY EMPLOYEES	XI	7
OVERTIME	V	2
PERSONAL DAYS	XIII	8
RANDOM DRUG AND ALCOHOL TESTING	XXII	15
RETIREMENT	VI	2
SALARIES	III	1
SICK LEAVE	XII	7

05/17/2

<u>Title</u>	<u>Article No.</u>	<u>Page</u>
STRIKE AFFIRMATION	II	1
TAYLOR LAW NOTICE	XXI	15
UNIFORMS	XVIII	14
WORKING HOURS AND SCHEDULES	XIV	9

05/17/2

THIS CONTRACT, entered into this 3rd day of April 2002, by and between the LAKE MOHEGAN FIRE DISTRICT (the "District"), and THE LAKE MOHEGAN PROFESSIONAL FIREFIGHTERS ASSOCIATION, INC., LOCAL 2956, I.A.F.F. (the "Association").

I. ASSOCIATION RECOGNITION

The District recognizes the Association as the exclusive representative of all full-time paid firefighters employed by the District, excluding the Captain, for the purpose of negotiating collectively the terms and conditions of their employment, and entering into a written agreement with respect thereto.

II. STRIKE AFFIRMATION

The Association hereby affirms to the provisions of Section 207, Paragraph 3 of the Public Employees Fair Employment Act, that it does not assert the right to strike against any government, to assist or participate in such a strike.

III. SALARIES

1. The base salaries for unit members shall be as per Appendix "A," which reflects wage increases as follows. Effective January 1, 2000, each step on the salary schedule shall be increased by 4.0%. Effective January 1, 2001, each step on the salary schedule, excluding at the District's sole non-grievable discretion the starting step (0-1 years) for all employees hired after the complete ratification and approval of the 2000-2003 Agreement, shall be increased by an additional 4.25%. Effective January 1, 2002, each step on the salary schedule, excluding at the District's sole non-grievable discretion the starting step (0-1 years), shall be increased by an additional 4.25%. Effective January 1, 2003, each step on the salary schedule, excluding at the District's sole non-grievable discretion the starting step (0-1 years), shall be increased by an

additional 4.5%. Effective January 1, 2004, each step on the salary schedule shall be increased by an additional 4.0%. Effective January 1, 2005, each step on the salary schedule shall be increased by an additional 4.0%.

2. 1. Payday will be every other Thursday, except if the payday falls on a Holiday, in which case payday will be the Wednesday before the Holiday.

2. Paychecks or any other monies due an employee shall be available to the employees by 0730, at Headquarters, on each payday, and shall be placed in a sealed envelope with a complete itemized deduction slip enclosed.

IV. LONGEVITY

A. Each employee shall receive a longevity increment of \$300 after each five (5) years of service. These increments are earned as of the appropriate anniversary date of the member's appointment to service with the District.

B. Payment of longevity increments will continue to be prorated, and payable in one lump sum amount in the December after the appropriate period of time has been served..

V. OVERTIME

Overtime shall be paid at the rate of time and a half.

VI. RETIREMENT

A. The District shall pay the full contribution to the New York State Policemen's and Firemen's Retirement System on behalf of all employees who are members of the New York State Policemen's and Firemen's Retirement System.

B. The employees shall be eligible to participate in the Retirement and Pension Program defined in Section 384, including Options F, G, and H as set forth in the Retirement and Social Security Law of the State of New York.

C. The District shall adopt § 384, Option D, of the Retirement and Social Security Law.

D. The District shall adopt the provisions of Section 302-9(d) of the Retirement and Social Security Law (one year final average salary).

VII. EMT CERTIFICATION

1. a) The District shall continue to have the right to assign employees with EMT Certification to duties appropriate to that certification.

b) All employees hired on or after January 1, 1993 shall, as a condition of continued employment, be required to obtain within one year of their employment, and then maintain, EMT Certification. Effective upon the complete ratification and approval of the 2000-2005 Agreement, upon good cause and specific circumstances (e.g., a death in the family or an injury caused the employee to miss the recertification test) shown by the employee, the Board of Fire Commissioners will not unreasonably withhold its consent for the employee to have an additional year within which to obtain certification.

c) EMT Certification shall be elective for all employees hired before January 1, 1993.

d) EMT Training shall be provided by the District. Payment shall be made at the rate set forth in Article V for all EMT Training performed while the employee is off-duty.

2. EMT Certified employees shall receive a \$1,500 annual stipend, prorated monthly for time certified and working during the year. The stipend shall be increased to \$1,850 effective

05/17/2

January 1, 2001, \$2,200 effective January 1, 2002 and \$2,550 effective January 1, 2003. In order to qualify for the stipend, the employee must work at least one-half of the employee's regularly scheduled days/nights in the month.

VIII. ANNUAL LEAVE

A. In the second to the fifth year, two weeks (14 consecutive days) (effective January 1, 2002, 8 working shifts) with full pay shall be granted to employees. From the 6th through the 10th year, three weeks (21 consecutive days) (effective January 1, 2002, 12 working shifts) with full pay shall be granted and from the 11th year on, four weeks (28 consecutive days) (effective January 1, 2002, 16 working shifts) shall be granted to all employees of the District. The conversion from calendar days to working shifts is not intended to provide an employee with more vacation than the employee would have received pursuant to the prior language. Such vacation with pay shall be granted only at such time or times as the work of the department will permit. In calculating the time allowed for vacations, intervening holidays shall not be considered vacation days.

B. Alterations of vacation requests may have to be adjusted before final approval is granted. All vacation requests for the year will be submitted on Fire District report sheets. All requests will be granted according to seniority, and must be submitted in November and December of the preceding year. The selection of two (2) weeks (effective January 1, 2002, 8 working shifts) for all employees will be completed and then the balance of weeks will be selected on a seniority basis.

C. Employees who receive a summer vacation June 15th through September 15th of any year may not obtain reimbursement for paid holidays during this period.

D. When a member goes on vacation, the member may notify the District Treasurer at least thirty (30) days in advance of the commencement of the vacation, and the member shall receive, prior to going on vacation, the total number of paychecks which would normally fall within the member's vacation.

E. Employees will be allowed to split their vacations, subject to the Captain's discretion to grant or deny specific requests. No fewer than two consecutive working shifts may be taken in any vacation choice.

IX. HOSPITALIZATION AND DENTAL

A. 1. The District shall pay the full amount of premium specified by the New York Statewide Plan (Blue Cross, Major Medical) for the group health insurance. Any employee desiring another plan will have to bear any additional cost.

2. An employee may elect to change enrollment at any time between November 1 and November 30 from family to individual coverage under the Plan provided pursuant to paragraph (A)(1) above. In this event, the employee shall receive 25% of the savings to the District, provided the employee remains uncovered by family coverage under such plan for a period of twelve (12) consecutive months. Such payments shall be made at the end of the twelve (12) month period and annually each twelve (12) months thereafter, provided the member remains uncovered by family coverage under the plan. Nothing contained herein shall preclude a member from reenrolling in family coverage within the twelve (12) month period provided, however, that in the case of a member who so reenrolls in less than twelve (12) months no payment shall be made. After the twelve (12) month period, such member may only reenter family coverage if he/she is no longer covered by the comparable plan of a spouse.

3. Employees shall not be eligible for family health insurance coverage by the District if they are eligible for coverage through a spouse's comparable plan. In this event, the employee shall receive 25% of the savings to the District for the period during which the employee is not receiving family health insurance benefits but is receiving individual coverage because of the operation of this provision. Payment shall be prorated appropriately and made one time per year, at a time to be designated by the District. All employees must provide the District with relevant information about their spouse's health insurance plan(s) by within two weeks from the ratification of this Agreement so that the District can determine comparability and eligibility. Employees must immediately notify the District of any changes in their spouse's health insurance coverage which may affect their eligibility under the District's plan or the comparability of the spouse's plan to the District's plan. It is the parties' understanding that under emergency circumstances, the open enrollment period is not limited to the month of November.

B. Employees will be granted \$600 for the Family Dental Plan and \$400 for the Individual Dental Plan in regular monthly installments upon presentment of the statement from the carrier. The plan shall be administered by the Association.

X. HOLIDAYS

A. Employees shall have eleven (11) "Legal Holidays" as follows:

New Year's Day	Washington's Birthday	Easter Sunday
Memorial Day	Independence Day	Labor Day
Columbus Day	Veteran's Day	Thanksgiving Day
Christmas Day	Martin Luther King, Jr. Day	

B. The aforesaid "Holidays" shall entitle each employee to compensatory time for such holidays while the employee is in the employ of the District. Any unused holidays will be

compensated to the employee at the regular hourly rate based on a twelve (12) hour shift.

Payment will be made by the end of each calendar year. The employee shall not have the right to take these days off unless authorized by the District or the Captain. Under all circumstances, the employee shall be scheduled to work, nevertheless, in accordance with the rules of the District relating thereto and with regard for the work schedule and coverage requirements of the District.

C. Where an employee has been employed for less than a full year, the employee shall receive only such "compensatory time" for such "holidays", in proportion to that portion of the year during which the employee is employed.

D. Requests for Paid Holidays must be made not less than seventy-two (72) hours in advance. Requests will be made on a Fire District Report and must be delivered personally to the District administrator and at that point a determination will be made for approval or disapproval. Request for Paid Holidays will not be granted between December 15th to January 2nd of each year. Employees will work their regular schedule pertaining to holidays and none will be authorized on the day that the holiday falls on. For the purpose of scheduling, Monday through Sunday constitutes a workweek for the employee who is covering the Paid Holidays.

XI. ON DUTY EMPLOYEES

The number of paid firefighters on duty and their place of duty, at one time, will be at the discretion of the District.

XII. SICK LEAVE

A. Employees will be credited with sick leave at the rate of one (1) day per completed calendar month. No sick leave may be granted, however, until an employee has six (6) months of

continuous service. Earned sick leave not taken in any calendar year may be accumulated up to a maximum of one hundred and fifty (150) days during the period that the employee is employed.

B. Any unused period of sick leave up to one hundred and fifty (150) days may be accumulated and the employee upon retirement, in good standing, shall be paid for accumulated sick leave days not to exceed one hundred and fifty (150) days at the rate of pay during which time the sick leave pay was accumulated commencing with the first day of such accumulated sick leave. Such time will be computed from the time that the employee first begins to accumulate unused sick leave. Any unused portion of annual sick leave in excess of one hundred and fifty (150) days is to be paid at the end of the calendar year.

C. Sick leave is defined as absence from duty because of illness, injury, quarantine resulting from exposure to contagious disease. The Board of Fire Commissioners through the Department Head may require such substantiation of sick leave as the Department Head deems necessary. Such leave shall be reported to the Department Head at such time and in such form as the Department Head may require.

XIII. PERSONAL AND BEREAVEMENT DAYS

A. Personal Days

1. Personal Days shall be available in the following manner: Two (2) days shall be allowed for any personal business during each year of this contract. Those personal days may be accumulated as "unused sick leave" as hereinabove mentioned.

2. Personal leave is not intended nor be allowed to be used in conjunction with any vacation or supplemental time.

B. Bereavement Days

1. Should there be a death in the family of the employee, the employee may have up to three days for "bereavement leave" during each year of this contract. However, unused bereavement days shall not be accumulated or paid for. Effective upon the complete ratification and approval of the 2000-2005 Agreement, revise to read, "In the event of a death in an Employee's immediate family, which shall include grandparent, parent, husband, wife, child, brother, sister, mother-in-law, father-in-law, brother-in-law, sister-in-law, and any other relatives who permanently reside in the same dwelling unit, the Employee shall not be required to report for a scheduled tour of duty prior to the expiration of three work days following the date of death."

2. Additional bereavement leave may be granted under extreme circumstances at the discretion of the Board.

XIV. WORKING HOURS AND SCHEDULES

A. The regular work week shall consist of forty (40) hours. The work schedules shall be determined by and may be changed from time to time at the discretion of the District.

B. Exchanging of shifts between employees shall be allowed with the approval of the District within the same calendar week. The employee shall submit written notice at least seventy-two (72) hours prior to such change except in cases of emergency. No consecutive shifts will be allowed on exchange of time with other employees.

C. The District is not responsible for any overtime over a forty (40) hour period because of exchange of shifts.

D. Effective upon the complete ratification and approval of the 2000-2005 Agreement, in the event an employee is recalled to duty; i.e., when required to report to duty for a period of time that does not run into or run after the employee's regular shift, the employee shall receive a minimum of four hours' pay at time and one-half rate. Recall shall be computed from the time the employee reports for duty.

XV. ASSOCIATION RELEASE TIME.

The Association shall be entitled to five shifts release time per year. Requests for release time shall be made by the Association President, and shall be granted provided that reasonable written advance notice is given of the shift to be taken, the request is relevant to the business of the Association, and the District shall not incur any additional costs, e.g., overtime, by reason of granting the request.

XVI. DURATION OF CONTRACT

This contract shall remain in full force and effect commencing with the 1st day of January, 2000 and terminating on the 31st day of December, 2005.

XVII. GRIEVANCE PROCEDURE

Section 1. Definitions: Unless otherwise expressly stated, the following terms shall, for the purpose of this Article, have the following meanings:

A. "Arbitrator" shall mean a neutral arbitrator chosen under the Voluntary Labor Tribunal Rules of the American Arbitration Association.

B. "Association" shall mean the Lake Mohegan Professional Firefighters Association, Local 2956, I.A.F.F.

C. The "date of the alleged grievance" is that date upon which the event or condition constituting the grievance occurred, or that date upon which the grievant knew or reasonably should have known of the event or conditions, whichever is later.

D. "Grievance" shall mean a claim by a unit member alleging a violation of a specific provision of this Agreement, and shall not include any matter which is not covered by the specific terms of this Agreement or which is covered by law. In the event of a grievance which affects the entire unit, the Association may submit a class grievance.

Section 2. Basic Standards and Principals:

A. Every employee covered by this procedure shall have the right to proceed personally or together with the Association's representative, or any other representative of the employee's choice, at Steps 1 and 2. The Association may proceed to the 3rd Step of this procedure provided the grievant also wishes to proceed.

B. Pursuit of any legal, statutory or other remedy covering the claim covered in the grievance bars further or subsequent proceedings for relief under this Agreement.

C. Time limits set forth herein may be extended or diminished only by mutual written agreement of all parties concerned.

Section 3. Procedures:

A. Both parties agree that grievance proceedings shall be kept as informal as possible at all levels of the procedure.

B. All grievances shall include the name and position of the aggrieved party, the identity of the provision of this Agreement involved in the grievance, the time when and the place where

the alleged events or conditions constituting the grievance took place, the identity of the party responsible for causing the events or conditions if known to the aggrieved party, and a general statement of the nature of the grievance and redress sought by the aggrieved party.

C. All decisions shall be rendered in writing at each level of the grievance procedure. Each decision shall be promptly transmitted to the member, the Association and representatives of the District, if any.

Section 4. Time Limitations:

A. Failure at any level of the grievance procedure to communicate a decision to the aggrieved party, a representative of the aggrieved party and the Association, within the specified time limit, shall permit the lodging of an appeal at the next level of the procedure within the time which would have been allotted had the decision been communicated by the final day.

B. If a decision at one level is not appealed to the next level of the procedure within the time limit specified, the grievance will be deemed to be discontinued and further appeal under this Agreement shall be barred. Regardless of any other section of this Article, no grievance will be entertained as described herein and such grievance will be deemed waived unless the grievance is commenced at the first available level within thirty (30) calendar days after the member knew or should have known of the act or condition on which the grievance is based.

Section 5. Grievance Procedure: The grievance procedure shall consist of the following:

First Step. The first procedural stage shall consist of the employee's presentation of the grievance in writing to the Captain or a representative designated by the Captain. A written decision or determination thereon shall be made by the Captain or his designated representative

within fourteen (14) calendar days from the time of submission. A copy of the decision shall be mailed to the aggrieved employee, the Association and the District. The Captain may hold an informal hearing at this level if he believes it is necessary.

Second Step.

A. If the employee is not satisfied with the decision at Step 1, he/she may appeal the grievance to the Board of Fire Commissioners by written notice to the District within fourteen (14) calendar days of the date of the decision at Step 1.

B. Within fourteen (14) calendar days after the receipt of the appeal, or at its next regularly scheduled meeting, whichever is later, the Board of Fire Commissioners shall consider the grievance in executive session. The Board may hold a hearing if it believes it is necessary.

C. Within seven (7) calendar days after it has completed its consideration of the grievance, the Board of Fire Commissioners shall render a written decision on the grievance.

Third Step.

A. If the Association and the grievant are not satisfied with the decision at Step 2, it may submit the grievance to arbitration by written notice to the District within fourteen (14) calendar days of the date of the decision at Step 2.

B. The written notice to the District shall be a copy of the "Demand for Arbitration" submitted by the Association to the American Arbitration Association.

C. The written report of the Arbitrator shall contain a statement of the Arbitrator's findings of fact, reasoning, conclusions and binding award on the issues submitted. The Arbitrator shall have no authority to modify, alter, add to or subtract from any of the terms of this Agreement and shall be bound by its express terms.

D. The Arbitrator shall send a copy of his/her written report to the Association, the District and its representative(s).

E. Costs of the Arbitrator shall be equally borne by the Association and the District.

XVIII. UNIFORMS

A. Employees will have a \$425 per year/draw uniform allowance. All purchases of uniforms must be completed by December 15th of each year.

B. The District will determine where uniforms are to be purchased.

C. The District shall pay for the first issue of any new type of uniform ordered by the District. The employee shall pay for any new type of uniform requested by the employees. All changes of uniform must have the final approval of the District.

XIX. LABOR-MANAGEMENT COMMITTEE

There shall be a Labor-Management Committee, consisting of two members of the Union and two members of the District. The Committee's jurisdiction shall be limited to matters which are terms and conditions of employment. The Committee shall meet as needed, upon the request of either party, upon reasonable notice.

XX. AGREEMENT AND CONTRACT

A. It is understood and agreed that the terms and conditions hereof apply to "paid firefighters" while engaged in the services and duties as "paid firefighters", that the aforesaid terms and conditions do not apply with respect to any "paid firefighter" who shall be engaged as a "volunteer" which volunteer shall receive such benefits and emoluments as are provided by law for volunteers.

B. The aforesaid constitutes an entire agreement and contract between the LAKE MOHEGAN FIRE DISTRICT and the LAKE MOHEGAN PROFESSIONAL FIREFIGHTER'S ASSOCIATION, INC., LOCAL 2956, I.A.F.F., and no oral statement or representations from either side shall affect or modify the validity of the provisions herein.

XXI. TAYLOR LAW NOTICE

"IT IS AGREED BY AND BETWEEN THE PARTIES THAT ANY PROVISION OF THIS AGREEMENT REQUIRING LEGISLATIVE ACTION TO PERMIT ITS IMPLEMENTATION BY AMENDMENT OF LAW OR BY PROVIDING THE ADDITIONAL FUNDS THEREFOR, SHALL NOT BECOME EFFECTIVE UNTIL THE APPROPRIATE LEGISLATIVE BODY HAS GIVEN APPROVAL."

XXII. RANDOM DRUG AND ALCOHOL TESTING

Effective upon the complete ratification and approval of the 2000-2005 Agreement, the current drug testing plan shall be expanded to provide for random drug and alcohol testing as follows:

A. Policy

It is the policy of the District to detect and deter the abuse of alcohol, the use and possession of illegal drugs and the abuse of prescription drugs in the work place. The parties recognize that the use and possession of such substances constitutes a serious threat to the health and safety of all employees and members of the public. Accordingly, the purpose of this article is to formalize a District policy which prohibits the use of alcohol that impairs an employee's ability to perform his/her duties while on duty, and any illegal substances and/or drug capable of impairing the ability of unit members to perform their duties while on duty.

B. Definitions

1. The term "Drug" shall include controlled substances as defined in Section 220.00(5) of the Penal Law, State of New York and marihuana, as defined in Section 220.00(6).

2. The term "Drug Abuse" shall include the use of a controlled substance or marihuana, which has not been legally prescribed and/or dispensed, and the improper or excessive use of a legally prescribed drug as determined by the Medical Review Officer designated by the District.

3. The term "Alcohol Abuse" shall be a test result of 0.04 or greater.

4. Random Employee Selection Sheet: A computer-generated list of randomly selected District members identified by employee I.D. numbers.

5. Computer Control Sheet: A computer generated list of all District members contained within the random drug/alcohol test data base.

C. Procedure

1. District members shall be subject to random drug and alcohol testing. No more than twelve (12) testing sessions will be conducted annually. For each session, a shift will be randomly selected. Then, the members to be tested will be randomly selected from the shift. No more than two (2) members from the selected shift will be randomly selected for testing during each session. A member may not be required to submit to testing more than three (3) times in a calendar year. The members picked will report for testing upon notification if on duty, or on their next working shift.

2. Whenever members of the District obtain information or suspect that another member of the District may be abusing drugs or alcohol, they shall immediately notify the Fire Captain.

3. Refusal to submit. The refusal by a member of the District to submit to a drug or alcohol test or the adulteration of such test by the member pursuant to the provisions of this order may result in immediate suspension and subsequent disciplinary action which may include dismissal from the District.

4. Testing Procedures

a. Every reasonable effort will be made to maintain employee confidentiality. In order to insure confidentiality and the integrity of the tests, samples will only be taken at the test location by the authorized medical staff. Sample taking will not be conducted, or otherwise interfered with by the District or any representative of the Employee. Samples will never be handled or tampered with by the District or any representative of the Employee. Samples will not be released to anyone, except as authorized in this policy or as required by law, without the individual written consent of the member.

b. Each member of the District being tested shall present his or her shield and identification card at the test location to ensure proper identification.

c. Each member of the District being tested may consult with and be accompanied by a representative of his or her collective bargaining unit. The Association representative may confer with and advise the member before and after the collection process, but shall not participate in or interfere with the process in any way. The Association representative shall be given reasonable advance notice of when such testing will occur so that he

or she may attend. However, the collection process shall not be delayed because the Association representative is unavailable.

d. Prior to testing, each member shall list all medications ingested during the preceding ten (10) days. The member may also list any supplements, vitamins, herbs, foods or other products ingested during that same period. The list shall be sealed in an envelope and the employee's name and date will be written on the outside. If the test results are negative, the envelope will remain sealed and be destroyed in the presence of the Association President or designee.

e. There shall be no direct observation of the giving of the urine sample unless there is reason to believe that the sample may be tampered with, in which event direct observation by an authorized individual of the medical staff is permitted. Such individual shall be a person of the same gender as the employee providing the sample.

f. Testing shall be performed by a laboratory licensed or certified by SAMHSA, HHS. Two separate containers supplied by the testing lab shall be prepared by each member being tested. Each container shall have a code number and date of collection affixed. The specimen shall be divided into two samples at the time of collection and shall be sealed and initialed in the presence of the Employee.

g. The laboratory administering the test shall assure that the appropriate chain of custody is established in order to verify the identity of each sample being tested.

h. Initial alcohol screening shall be conducted by a breath alcohol technician using an individually-sealed mouthpiece opened and attached to the evidential breath testing device ("EBT"). The employee will be asked to blow forcefully into the mouthpiece for

least six seconds, or until the EBT indicates that an adequate amount of breath has been obtained. If the employee states that he/she does not have sufficient air capacity, he/she shall be sent immediately for a medical evaluation for verification of the claim. Absence of verification shall be considered a refusal. If the result of the screening is an alcohol concentration of greater than 0.04, a confirmation test will be performed between 15 and 20 minutes after the completion of the screening test. Prior to the confirmation test, the EBT will be cleaned and a new mouthpiece will be used. If the first test result is negative, no further testing will be performed. If the confirmation test is negative, the entire test will be deemed negative, and a negative test result will be reported. Samples will be destroyed.

i. Initial drug screening will be by the Enzyme Multiple Immunoassay Testing (EMIT). No sample will be further tested upon a negative screening for controlled substances or marijuana. After a negative screening, the sample will be destroyed.

j. Each and every positive EMIT test will be confirmed using Gas Chromatography Mass Spectrometry test (GCMS). Only if confirmed by GCMS will a test result in a positive report.

k. Any member whose test results in a positive report may, within five (5) business days of receiving notification of such result, request in writing to the Fire Captain that the second sample be made available for retesting at the licensed/certified laboratory from a list of such laboratories supplied by the District. The District will be responsible for all costs and expenses in connection with the retesting. If the retesting results in a negative report, the test will be deemed negative and all samples will be destroyed.

l. Selection of members to be selected on a random basis shall be performed by a computer program which will randomly select the employee number of those to be tested. The random selection of a member will not result in that member's employee number being removed from such selection process.

m. The selection will be made by a laboratory licensed or certified by SAMHSA, HHS and witnessed by a representative designated by the Fire Captain as well as a representative designated by the Association. All designated representatives will affix their signatures to the random employee selection sheet and computer control sheet.

n. The selection process shall not be delayed due to the unavailability of the Association representative. Each shift will have a designated Association representative for this purpose.

o. A member selected will be notified and ordered to report for testing. Members will not be given any advance notice of randomly scheduled tests. The Association President will be permitted to review the list of members selected for testing and the computer control sheet after all selected members have been tested.

p. Members of the District will not be recalled to duty for random testing on their regularly scheduled days off or if the member is on authorized leave.

q. All random employee selection sheets and corresponding computer control sheets will be maintained in the office of the Fire Captain.

r. A member of the District will be exempt from a drug/alcohol test if at the time of selection for that particular test he or she is unavailable due to (i) vacation, (ii) injury, (iii) sickness, (iv) military leave, (v) bereavement leave, or (vi) jury duty.

5. Results of Tests

Members who are tested will be notified of the results of all drug/alcohol tests and provided a copy of the corresponding test results, as they become available, at no cost to the member as they become available. If the member has a drug and alcohol test and intends on introducing the results of such test at his/her disciplinary hearing, the District will be provided with a copy of the results of the test at no cost and at least thirty (30) days prior to the hearing.

6. Confidentiality

The test results and/or other records released are to be used solely by the District to carry out its obligations under the drug and alcohol testing policy, administering the contractual procedures, taking appropriate disciplinary action, or where the release is authorized or required by law. For the purpose of administering the policy, they may only be assessed by a Fire Commissioner if designated, for such purpose, the Fire Captain and the attorney for the District, and/or their designated medical experts, or others authorized by the attorney for the District for the purpose of presenting evidence in disciplinary matters. If release of these records to others is authorized or required by law, the District shall provide written notification to the firefighter listing the records released and to whom the records were released.

7. Positive Test Results

a. All positive test results will be reviewed and verified by a qualified Medical Review Officer (MRO) designated by the District. The Medical Review Officer shall examine alternate medical explanations for a positive test result. Pursuant to this responsibility, he/she may conduct a medical interview with the individual, who may be accompanied to the interview by an attorney and/or union representative, review the individual's medical history or

review any other relevant biomedical factors. If the MRO objects, the attorney may not sit in during the interview. In such a case, the individual may stop the interview at any time for the purpose of consulting an attorney provided that no unreasonable delay results in conducting or continuing the interview. If the Member provides appropriate documentation and/or the MRO determines that there is a legitimate medical use of the prohibited drug or alcohol, or an alternate medical explanation exists, then the test results are reported as negative. A negative test result is not reviewable by the District.

b. Positive Alcohol Test: Members who test positive for the use of alcohol, after being interviewed by the MRO, shall be relieved of duty. If the BAC test result is less than .1, but .04 or greater, then the employee will be directly referred to and immediately enrolled in the Employee Assistance Program, as described in Section XXIII, in lieu of any disciplinary action being taken. If the employee has a BAC of greater than .1 or has a second positive alcohol test, then the District has the right to discipline that employee up to and including dismissal.

c. Positive Drug Test: Members who test positive for the use of drugs, after being interviewed by the MRO, shall be relieved of duty. The District retains the right to discipline a member who tests positive for drug use up to and including dismissal. In the sole discretion of the District, members who test positive for the use of drugs who do not have a history of drug abuse may be referred to the EAP.

d. Discipline For Positive Test Results: Subject to the restrictions of this policy, the District has the right to discipline members who test positive for drug and/or alcohol use. In deciding the appropriate discipline and, if applicable, penalty, the District must consider

the following factors: (1) Employee's work record; (2) Distinctions and/or honors bestowed in service; (3) Voluntary rehabilitation efforts; (4) Type of drug abused; (5) Evidence regarding extent of use or misuse; (6) Prior history of abuse or lack thereof; (7) Other mitigating factors presented by the employee; and other factors deemed appropriate by the District. The District will issue a written decision addressing each of these factors before imposing any discipline.

e. Voluntary treatment: Employees may voluntarily seek treatment at any time before he/she reports to the laboratory for testing. Employees who voluntarily seek treatment for substance abuse under the auspices of the EAP shall immediately notify the EAP of their desire to participate in the program. The employee and the representative of the EAP shall meet as soon as possible for purposes of discussion on entrance into the program. Any employee who has voluntarily sought treatment shall not be subject to any disciplinary actions, for that reason.

f. Duty Assignment After Treatment: Once an employee successfully completes rehabilitation they shall be returned to their duties consistent with their title as a firefighter, if available.

XXIII. EMPLOYEE ASSISTANCE PLAN

Policy Statement

A. The Employee Assistance Program is provided within the following framework:

1. All records pertaining to the Employee Assistance Program will be kept confidential. No information obtained from or about an employee as a result of his or her participation in the Program shall be made available to be used for any purpose unless a "Consent to Release Information" form has been signed by the employee and acknowledged.

2. The District assures that the decision to seek or not seek assistance through the Employee Assistance Program will in no way be detrimental to an employee's job security or advancement opportunities.

3. The District's sole interest in personal concerns is strictly limited to the effect of the problems on employee's work performance standards.

4. It is the responsibility of the employee to meet acceptable work performance standards.

5. It is the responsibility of the employee's supervisors to implement this Policy by advising the employee of situations in which they have reason to believe that a referral to an EAP may be appropriate to address issues of concern to the District. This Program will not be used for disciplinary action of any kind against the employee.

6. Sick leave or salary continuance will be provided in accordance with the existing "contract" between the District and the Association.

XXIV. GENERAL MUNICIPAL LAW SECTION 207-A PROCEDURE

Effective upon the complete ratification and approval of the 2000-2005 Agreement, the procedure shall be as follows.

A. Purpose

This procedure is intended to regulate the application for, and the award and/or termination of, benefits under Section 207-a of the General Municipal Law ("GML 207-a"). It shall operate as a waiver of any other procedural rights the District or the Association and/or its members may have pursuant to GML 207-a regarding the application for, and the award and/or termination of, benefits under GML 207-a, including the right to utilize any other forum to seek

redress regarding the subject matter set forth herein. Nothing contained herein should be construed as limiting the power of a party to challenge an arbitration award, as provided herein, pursuant to C.P.L.R. Article 75. Any future changes enacted by the State in the provisions of GML 207-a that conflict with an explicit provision of this procedure shall supersede the preexisting provision of this procedure.

B. Application for Benefits

1. Members shall, within 48 hours of the occurrence, or within 48 hours of when the Member should reasonably have known of the occurrence, report to the Captain or Lieutenant on duty any injury or sickness ("injury") to themselves, no matter how slight. The notification ("application") shall be made on the existing "Injury Statistics for Career Firefighters" form, which will be amended by adding a line on which witnesses names, if known, shall be reported, and a jurat, as well as the following statement: "I submit this application pursuant to the procedure governing the application for and the award of benefits under Section 207-a of the General Municipal Law. The statements contained in this application are, to the best of my knowledge, accurate and true, and are made subject to penalties of perjury."

2. An application shall be deemed "untimely" unless it is filed on a timely basis in accordance with this procedure. Except as set forth in the next sentence, a Member's failure to comply with these reporting obligations shall result in the denial of an application for benefits under this procedure. In the event these requirements cannot be met due to (i) the Member's physical or mental incapacity; (ii) an unforeseeable emergency; or (iii) any other situation which the Captain, in his/her sole discretion, finds acceptable, these requirements shall be met within 48 hours of the Member's ability to do so, or such other time as is set by the Captain in his/her sole

discretion. In these circumstances, the Association or a member of the Member's immediate family may file the application on the Member's behalf, provided same is accomplished on a timely basis.

3. In addition, an injury report shall be completed by the Captain or Lieutenant and filed in the Captain's Office by the end of the next regular business day following the occurrence.

C. Initial Application for GML 207-a Benefits

1. The Captain or designee ("the Captain") shall have exclusive authority to initially determine the Member's eligibility for benefits under GML 207-a. The Captain shall have the authority to conduct a full investigation of the facts concerning the application.

2. After filing the application, the Member shall submit to one or more medical examinations or inspections ("examinations") as provided by law. The Member and his/her doctor/other health care provider ("health care provider") shall cooperate fully with the designated physician. Failure to cooperate may result in information being excluded as specified in paragraph 5 of this Section.

3. The Member shall, along with the application for GML 207-a benefits, complete, sign and submit to the District any medical release forms requested by the District, utilizing the "Employee Medical Waiver" form.

4. The Member and his/her health care provider(s) shall fully cooperate with the District's designated physician. This shall include, but not be limited to, forwarding to the District's designated physician all reports, data, records and other information related to the Member's injury.

5. Any reports submitted by either the District's designated or the Member's health care provider(s) shall include the following information: (a) the exact date(s) that the health care provider examined the Member regarding the injury; (b) an explanation of what the examination consisted; (c) diagnosis; (d) causation, and the basis for that belief; (e) treatment modalities; (f) what duties, if any, the Member cannot perform, and for how long; and (g) whether any or all of the duties the Member cannot perform could be performed with an accommodation(s) and, if so, what the accommodation(s) is (are). The failure to provide information specified in this paragraph and which is relevant to the report may result in the health care provider's report being disregarded by the District or the Arbitrator. A copy of this paragraph shall be added to the existing "Injury Statistics for Career Firefighters" form.

6. While a written decision (see Section C(7)) is pending on an application, time off allegedly attributable to the injury giving rise to the claim for GML 207-a benefits shall be charged to sick leave or GML 207-a leave based on the District's preliminary determination at the time the injury report is submitted. The District shall forward a written copy of its preliminary determination to the Member.

7. The Captain shall render a written decision on the application for benefits within 30 calendar days after receipt of all necessary information specified above, or 90 calendar days from the date on which the application was submitted, whichever is earlier. A copy of the decision, including an explanation for the decision if it is in the negative, and the District's designated physician's report(s) upon which the decision is based, where relevant, shall be mailed to the Member, by regular mail and certified mail, return receipt requested, at the address specified in the application.

8. If a decision is made at any time that the Member is eligible for GML 207-a benefits, then the Member shall be so categorized. Any leave previously charged to the Member due to the injury shall then be charged to GML 207-a leave and the Member shall be reccredited with any leave that was previously used in lieu of GML 207-a leave. The Member's GML 207-a benefits shall continue so long as the Member remains eligible.

9. In the event the Member is not satisfied with the Captain's decision and wishes to appeal it, the Member shall file with the Board of Fire Commissioners ("the Board") within thirty days of receipt of the decision, or thirty-five days of the date of the decision, whichever is later, a written demand for arbitration on the GML 207-a claim. The Board shall immediately forward a copy of the appeal to the Captain. The demand shall state in reasonable detail the basis (bases) for the request to have the decision reviewed. The parties to the arbitration shall be the District and the Member. There shall be a single arbitrator ("the arbitrator") who shall be selected in accordance with the AAA's Voluntary Labor Arbitration Rules. All costs billed by the arbitrator shall be borne equally by the District and the Member. All other costs shall be paid by the party incurring them; e.g., witnesses, exhibits, transcripts, etc.

10. The arbitrator shall have the authority to decide whether the Captain's decision was arbitrary or capricious with regard to the claim of entitlement to GML 207-a benefits. He/she shall have authority to consider and decide all allegations and defenses made with regard to the GML 207-a claim. In the event of a dispute between the parties as to the nature of the proceeding, the arbitrator shall first decide whether the proceeding presents an issue of an applicant's initial entitlement to GML 207-a benefits (see Section C ("Initial Applications for GML 207-a Benefits")) or whether the proceeding presents a different issue that should be

decided as outlined below (see Sections D ("Alleged Recurrence or Aggravation of Prior Injury") and E ("Termination of Benefits/Return to Duty")). The burdens of production, and proof by a preponderance of the evidence, shall be upon the Member, except for hearings involving Section E, where the burdens of production and proof shall be upon the District.

11. The arbitrator shall have no right to amend, modify, nullify, ignore, add to, or subtract from the provisions of this procedure, the collective bargaining agreement and the rules. The arbitrator shall have no authority to make a decision on any issue not submitted or raised by the parties.

12. The decision and award of the arbitrator shall be final and binding on the parties.

D. Alleged Recurrence or Aggravation of Prior Injury

1. In the event that the Member or the District alleges that an injury is a recurrence or aggravation of a prior injury, the procedures set forth in Section C ("Initial Application for GML 207-A Benefits") shall be implemented.

2. If such a relationship is found between the alleged recurrence or aggravation and a prior injury, and the prior injury was designated by the District as a GML 207-a injury, then the application for GML 207-a benefits shall be granted, provided the Captain or arbitrator otherwise finds the Member entitled to GML 207-a benefits as set forth in Section C (10, 11) ("Initial Application for GML 207-A Benefits"). If no such relationship is found, then the claim shall be treated as an initial injury and the matter shall be processed pursuant to Section C(1-12)) ("Initial Application for GML 207-A Benefits"). The Member shall submit to the Board's Office any previously unsubmitted health care provider(s) report(s) upon which the Member intends to

rely at the hearing immediately upon receiving same from the care provider. Likewise, the District shall submit to the Member any previously unsubmitted health care provider(s) report(s) upon which the District intends to rely at the hearing immediately upon receiving same from the care provider.

E. Termination of Benefits/Return to Duty

1. Upon receipt of a certification from the District's designated physician, as set forth in Section C(5) ("Initial Application for GML 207-A Benefits"), that a Member is able to perform all of the duties of his/her position, the Captain may notify the Member of same and/or the proposed termination of his/her GML 207-a benefit. The Captain shall notify the Member by serving a written notice of proposed termination, setting forth the effective date thereof and enclosing a copy of the physician's certification, upon the Member by regular mail and certified mail, return receipt requested.

2. If the Member disagrees with the Captain's decision, he/she shall commence an appeal pursuant to the procedures outlined in Section C(9) ("Initial Application for GML 207-a Benefits"). The Member shall submit to the Board's Office any previously unsubmitted health care provider(s) report(s) upon which the Member intends to rely at the hearing immediately upon receiving same from the health care provider. Likewise, the District shall submit to the Member any previously unsubmitted health care provider(s) report(s) upon which the District intends to rely at the hearing immediately upon receiving same from the care provider. If the Member submits, together with the appeal, a medical opinion contradicting the medical conclusion(s) of the District's designated physician, the Member's GML 207-a benefits will be continued. Otherwise, the Member shall be immediately placed on sick leave status. In the event

that the Member's GML 207-a status is confirmed when the matter is finally resolved, any leave time used as a result of the operation of this provision shall be reccredited to the Member.

F. Other Provisions

1. In the event that any portion of this procedure is invalidated by a decision of a tribunal of competent jurisdiction, then that portion shall be of no force and effect, but the remainder of this procedure shall continue in full force and effect. In this event, either the Association or the District shall have the right immediately to reopen negotiations with respect to a substitute for the invalidated portion.

2. Evidence pertaining to a Member's application for benefits pursuant to the Workers' Compensation Law, including whether or not the application was controverted, granted or denied, shall not be given any preclusive effect in any stage of this procedure, but shall be admissible as evidence to be given the weight deemed appropriate by the arbitrator.

3. This procedure shall take effect on April 11, 2002 and shall apply to any claim of entitlement to or use of GML 207-a benefits made after that date. In the event a proposed "new" utilization of GML 207-a benefits after this date is based on an injury that allegedly occurred prior to April 11, 2002, the Member shall comply with the terms of Section D ("Alleged Recurrence or Aggravation of Prior Injury") of this procedure within thirty days after the date of the "new" injury. After the filing of the application form, the claim for utilization of GML 207-a based on a pre-April 11, 2002 injury shall be decided in accordance with Section D ("Alleged Recurrence or Aggravation of Prior Injury").

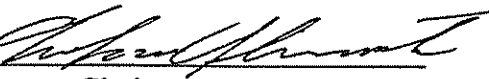
4. This procedure shall also apply to any proposed change in a Member's utilization of GML 207-a benefits enjoyed as of the date of the adoption of this procedure. Any

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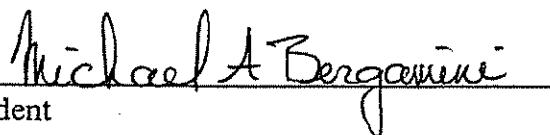
Member seeking to change his/her sick leave or GML 207-a leave status enjoyed as of the date of the adoption of this procedure must do so pursuant to the procedures outlined in Section B(1) ("Application for Benefits") within 30 calendar days of the adoption of this procedure. The Member may, if he/she so chooses, resubmit the "Injury Statistics for Career Firefighters" form he/she originally submitted for that injury as the application for GML 207-a benefits.

IN WITNESS WHEREOF, the parties have caused this contract to be executed by their duly authorized representative.

LAKE MOHEGAN FIRE DISTRICT

By: 
Chair

LAKE MOHEGAN PROFESSIONAL
FIREFIGHTERS, INC., LOCAL 2956, I.A.F.F.

By: 
President

Dated: 9-11-02

APPENDIX A

Salary Schedules

	<u>Jan. 1, 2000- Dec. 31, 2000</u>	<u>Jan. 1, 2001- Dec. 31, 2001</u>	<u>Jan. 1, 2002- Dec. 31, 2002</u>	<u>Jan. 1, 2003- Dec. 31, 2003</u>
0-1 Years	\$33,246	\$33,246	\$33,246	\$33,246
After 1 Year	\$38,798	\$40,447	\$42,166	\$44,063
After 2 Years	\$44,349	\$46,234	\$48,199	\$50,368
After 3 Years	\$49,902	\$52,023	\$54,234	\$56,674
After 4 Years	\$55,456	\$57,813	\$60,270	\$62,982

	<u>Jan. 1, 2004- Dec. 31, 2004</u>	<u>Jan. 1, 2005- Dec. 31, 2005</u>
0-1 Years	\$34,576	\$35,959
After 1 Year	\$45,826	\$47,659
After 2 Years	\$52,383	\$54,478
After 3 Years	\$58,941	\$61,299
After 4 Years	\$65,501	\$68,121