I. Purpose

To establish a consistent Transferability Policy in compliance with federal and state Americans with Disabilities Act (ADA) requirements; to establish a Modified-Duty Policy to assist firefighters who have experienced an injury or illness that is of a temporary nature and full recovery is expected; to establish a Maternity Leave Policy for expectant firefighters.

II. Background

The Transferability, Modified-Duty, and Maternity Leave Policy complies with federal and state requirements as prescribed by the Texas Commission on Human Rights. If the member is shown to be a "qualified individual with a disability" (as the term is defined by 42 U.S.C. Section 12111(8) (Supp. 1993), and Chapter 21 of the Texas Labor Code), and no reasonable accommodation will permit the member to continue in his/her present position, the AFD will reassign the member to a vacant position within the individual's rank, which he/she is otherwise qualified to perform, with or without reasonable accommodation; provided that such reasonable accommodation is consistent with business necessity and does not impose an undue hardship on the AFD. AFD reserves the right to assert any defense(s) available under applicable federal and state statutes. Furthermore, each application by an AFD member will be reviewed on a case-by-case basis.

III. Policy

A. Transferability Policy—Because of the Department's staffing needs, it is necessary to maximize the contribution from all positions in each classification established by the City Council. In addition, all classified members are subject to callback to emergency service duties in time of need, and must remain capable of performing those duties. Toward this end, and with regard to their
physical and mental fitness for duty, all Civil Service personnel must remain transferable at all times, except for temporary disabilities from which full recovery is expected, or if Section II is applicable. Otherwise, all classified members, regardless of current assignment, must remain capable of performing the most physically demanding duty in the Fire Department - Operations firefighting.

B. Modified-Duty Policy – Civil Service Law provides a fully paid leave, for up to one year, for members injured in the line of duty (the time allowed must be consistent with the nature of the injury). AFD supplements this benefit with a liberal Modified-Duty Policy. This General Order limits the amount of time which may be worked in Modified-Duty to a cumulative total of six (6) months per injury/illness, and precludes personnel from remaining on Modified-Duty status for a period of time longer than the established limits, unless the member is a qualified individual with a disability as defined in federal and state law as referenced in Section II. This shall be in effect for all injuries/illnesses, whether they occur on- or off-duty. AFD's Modified-Duty Policy supplements the provisions of Section 143.073 of the Texas Local Government Code previously quoted. Thus, with the one year of leave provided by law, and the six months which may be worked in Modified-Duty, a member has approximately eighteen (18) months to remain on less than Full-Duty status from an on-duty injury or illness (plus any leave accrued). The member may alternate leave usage between Modified-Duty and the one-year of leave provide by law known as “Line of Duty Illness or Injury Leave” (LDL) on a case-by-case basis.

C. A member requesting a Modified-Duty assignment for an off the job injury or illness will not be allowed to work a Modified-Duty assignment until the member has used 10 shifts of sick leave or has been off 30 days. For extenuating circumstances, Modified-Duty may be awarded by the Fire Chief on a case-by-case basis. If the Modified Duty assignment is approved the member’s placement will coincide with the beginning of a pay period.

D. Maternity Policy - Any member who is pregnant will be granted leave for a reasonable time prior to the expected date of delivery, and for a reasonable time following delivery or adoption. Pregnant members will have at least twelve weeks of approved leave (cumulative pre- and post-delivery period), which may consist of accrued leave, requested unpaid leave, or a combination of both. The appropriate Assistant Chief must approve paid leave for more than twelve weeks.

1. For safety purposes, firefighters who learn that they are pregnant may report their condition as soon as practical to their immediate supervisor and report for Modified-Duty. Modified-Duty may be worked during the term of the
pregnancy. The Fire Chief, on a case-by-case basis, may authorize post-delivery Modified-Duty.

IV. Procedure

A. Members who incur a temporarily disabling injury/illness while on the job shall contact the Special Projects Office for a Modified-Duty assignment on the same day they are released by their physician to do so. Members who are injured on the job may be required to furnish a Texas Workers' Compensation Work Status Report (DWC-Form 73) evaluating their potential for working Modified-Duty.

B. An AFD member may request a Modified-Duty assignment due to an off the job injury or illness. The member requesting Modified-Duty status will submit a written request for consideration for this assignment. The request will be addressed to the Fire Chief through the Special Projects Office. The request will be evaluated for approval on a case-by-case basis. A MODS shall be completed before a request for Modified-Duty is submitted. If the Modified Duty assignment is approved, the member’s placement will coincide with the beginning of a pay period.

C. Members shall report Modified-Duty status to their Battalion Chief between 10:30 a.m. and 11:00 a.m. on the day that they would normally be scheduled to work. Members shall report back on duty between 10:30 a.m. and 11:00 a.m. on the day that they are scheduled to return to their normal assignment to their Battalion Chief when released from Modified-Duty status. It is the member’s responsibility to notify their supervisor or Battalion Chief and Wellness Center Physician when they return to Full-Duty status.

D. The member must furnish the Department with a MODS from their doctor stating that the employee is able to perform Modified-Duty assignments and when the employee will return to Full-Duty or is scheduled for their next appointment. When released by their physician to Full-Duty, the employee shall submit an additional MODS releasing them to Full-Duty status and have the form signed by the members Section Supervisor/Battalion Chief and the Wellness Center Physician.

E. All Modified-Duty personnel will report for duty from 07:45 to 16:45, Monday through Friday, unless an alternate work schedule has been arranged by the section supervisor. Operations members do not receive Kelly Days while working Modified-Duty. Modified-Duty personnel will not report to duty on City holidays and will be charged Exception Vacation accordingly.

F. Personnel assigned to Modified-Duty are responsible for preparing their time sheet. Time sheets are to be submitted via email to Fire Payroll with a cc to the AFD Workers' Compensation Office every Thursday by noon.
1. Personnel on Modified-Duty for injuries sustained on the job may use up to 2 hours of LDL time, each day, for doctor's follow up visits and/or physical therapy prescribed by the treating physician, beginning at the time they leave their scheduled duty area. The member must schedule the treatment at a time that will not exceed the two-hour designation. In the event that the total time away exceeds 2 hours, the member may be asked to provide their supervisor with documentation of the length of the therapy session. This time must be indicated appropriately on the member's timesheet.

2. Personnel on Modified-Duty for off duty injuries or illness will be charged Sick Leave for physical therapy treatments and/or doctor's visits, hour for hour, the amount of time they are absent from duty.

G. The supervisor of the unit or section where the member is temporarily assigned must approve all requests for leave while on Modified-Duty. Members shall notify their Operations Battalion Chief when unscheduled vacation time is used, by e-mail. For members working a Modified-Duty assignment for an off the job injury or illness, previously scheduled vacation time will be taken at the time it was previously scheduled. A member may request that their Operations Battalion Chief reschedule any vacation time with the understanding that all current vacation rules and regulations are strictly adhered to. Vacation time that was previously scheduled for a weekend for Operations personnel will be divided into a Friday and Monday time period.

H. Members should be aware that benefits are available under the Family and Medical Leave Act and are available throughout the entire process. Prior to exhausting the benefits documented in this policy, the member shall contact the Support Services Section to obtain additional information on these benefits that are available through the City of Austin.