

FEDERAL MEDIATION AND CONCILIATION SERVICE

In the Matter of the Arbitration Between

METROPOLITAN WASHINGTON AIRPORTS
POLICE ASSOCIATION, IUPA LOCAL 5004,

FMCS Case No. 241208-01805
(Hang Tags; Lot Security)

Union,

and

DECISION & AWARD

METROPOLITAN WASHINGTON AIRPORTS
AUTHORITY,

Employer.

BEFORE: James D. Bilik, Esq., Arbitrator

APPEARANCES:

For the Union

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INTRODUCTION AND PROCEDURAL HISTORY

Pursuant to the Collective Bargaining Agreement (“CBA”) between the International Union of Police Associations Local 5004 (“Union”) and the Metropolitan Washington Airports Authority (“MWAA” or “Authority”), and the procedures of the

Federal Mediation and Conciliation Service, the undersigned was selected as arbitrator in this matter.

A grievance was initiated at Step 1 on September 21, 2023 challenging the actions of the MWAA in charging fees for parking lot hang tags, which are hung on the personal vehicle's rear view mirror, for unit members who are employed by the MWAA's Police Department and are stationed at Dulles International Airport and MWAA Police Headquarters.

The grievance was denied by the Authority at all pre-arbitration stages, and the Union advanced the issue to arbitration pursuant to Article 32 of the CBA.

The arbitration took place on August 1 and 13, 2024 remotely via the Zoom platform pursuant to agreement between the parties. The parties were afforded a full and fair opportunity to present witnesses and evidence and cross-examine opposing witnesses in support of their respective positions. A site visit by the undersigned and the parties' representatives to the MWAA Police Department's parking and adjacent facilities at Dulles and Reagan National ("DCA") airports had taken place on May 22, 2024.

Corporal Paul Solo, Corporal Paul Alexander (retired), Corporal Keith Shibley, Corporal John Ivey, and Corporal Yolanda Markham testified on behalf of the Union. Richard Golinowski (Vice President and Airport Manager at Dulles); Major Freddie Crowder (Department Station Manager for Dulles Airport); and Deputy Chief James Wasem testified on behalf of the Authority. The following exhibits were received in evidence: Union Exhibits 1, 2, 3a, 3b, 4a-f, 5a-k and 5m-n, 6a-m, 7a-p, and 9; Agency Exhibits 1 and 2; and Joint Exhibits 1-11. There was no challenge to arbitrability. A

stenographic record was made of the proceedings. The parties submitted written post-arbitration briefs by October 5, 2024, at which time the record was closed. The Arbitrator advised the parties on October 28, 2024 that he would be unable to complete the Decision and Award by November 5; no objection was made to the delay.

STATEMENT OF THE ISSUES¹

1. Did Management violate Article 26 of the collective bargaining agreement by, including but not limited to, requiring unit members to pay hang tag fees?
2. If so, what shall the remedy be?

RELEVANT FACTS

The bargaining unit represented by the Union consists of Police Officers and Corporals serving in the MWAA Police Department. Approximately 56 unit members are assigned to Dulles and 57 at DCA, and approximately 52 unit members are assigned to Police Headquarters (detectives, training unit, recruiting office, motor unit, and Special Operations unit) which is at Dulles. Assignment to Dulles or to DCA is determined based upon the Authority's needs, during the officer's initial training period.

Unit members are assigned either to Dulles International Airport, to Police Headquarters at Dulles, to DCA, or to a "specialty assignment." There is also a K-9 unit near Dulles, which handles the dogs that are trained to respond to various dangers including the presence of explosive materials. The two airports are about 30 miles (a 40-minute drive) apart. The K-9 unit has its own building with kennels and a parking

¹ In the absence of a stipulated statement of the issues to be determined, I framed the issues at the arbitration hearing as stated here.

area. Generally, unit members park their personal vehicles at the location to which they are assigned.

Article 26 of the collective bargaining agreement reads as follows:

Article 26 – Parking

Section 1

Bargaining Unit employees shall, upon payment of the prevailing periodic fees, be entitled to a secure parking location adjacent to each station at either Airport without additional charge. However, the employees must obtain the appropriate hangtag.

Employee hang tag fees are collected on an annual (October 1 to September 30) basis. The fee was \$130 per year at all relevant times through the October 2023-September 2024 year.

Hang tags are also required for all tenants of both airports, which includes airlines, outside law enforcement such as the FBI, and retail businesses located in the passenger terminals. For some tenants the cost of parking is included in their lease fees.

It is undisputed that the employee parking area at Dulles used by unit members assigned to Dulles or to Police Headquarters (which is at Dulles) currently complies with Article 26 and has been in compliance since October 1, 2021. The Union takes the position that the parking area at DCA (known as Lot D) does not comply with Article 26. Lot D is adjacent to the police station located in the Historic Terminal Building at DCA. The Authority apparently disputes that Lot D is out of compliance, or at least asserts that the Union has failed to prove such non-compliance. See discussion below.

History of the Current Dispute

A brief history of the parties' handling of the parking issue to date clarifies the current dispute. In July 2017, before improvements were made to the parking location at Dulles, the Union initiated a grievance challenging alleged security deficiencies at both locations. Arbitration was scheduled for late September 2018, but the parties entered into a settlement agreement on November 30, 2018 that effectively put the grievance on hold.

The November 2018 Settlement Agreement included measures to improve security at both the DCA and Dulles locations, i.e., increased area/beat checks for all shifts, increased camera monitoring by the desk officer on shift, and ongoing and regular communication, including at roll calls, aimed at improving awareness of security issues.

In addition, the November 2018 Agreement referenced physical security improvements to be made, with the Authority agreeing to communicate with the Union quarterly regarding the status of such improvements, and to consider the Union's input as construction projects progress. The November 2018 Agreement referenced improvements that were already scheduled to be made at the Dulles parking location over the following few years.

With regard to DCA, the November 2018 Settlement Agreement expressed the parties' understanding that the Authority would explore long-term solutions such as the relocation of the police station and parking lot, as well as short-term security improvements such as temporarily using a different area for employee parking.

At Dulles, various capital improvements were completed after the November 2018 Agreement, including an 8-foot security fence around the parking lot, mechanical gates with controlled access for vehicles, two controlled pedestrian gates, and upgraded and additional lighting and cameras. As noted, the parties are in agreement that as of October 1, 2021, the parking situation at Dulles fully complies with Article 26. I take this agreement to apply to the parking area for all unit members assigned at Dulles including those with patrol duties and those who work at Headquarters. Officers assigned to the K-9 unit located near Dulles Airport are in a different category (see discussion below) as their parking area was not secure at the time relevant to the grievance.

The November 2018 Agreement also provided that the parties would seek to resolve the issue of “reimbursement of 2018 hang tag fees and suspension of further hang tag fees,” and, failing resolution, to engage in “binding mediation.” No resolution occurred and after a mediation session, the mediator issued an opinion in September 2019 finding that providing secure parking is a condition precedent before the Authority can require unit members to pay hang tag fees. The mediator John E. Kloch concluded as follows:

In accordance with this opinion, I find that Union employees are entitled to reimbursement of any hang tag fees for the year 2018 and any paid in 2019, and they are likewise entitled to suspension of such hang tag fees for the years 2020, 2021 and 2022, or until MWAA has shown that it has complied with the language of Article 26 (CBA).²

² Union Exhibit 2.

As indicated above, the November 2018 Agreement provided that the parties would meet to discuss any concerns the Union had going forward regarding the Authority's efforts to improve security in either or both parking lots, and that if the Union decided to pursue the underlying July 2017 grievance, it could proceed directly to arbitration.

A grievance was in fact arbitrated in March 2022. The issue that was agreed upon by the parties was:

Is the proposed lot (i.e., areas three and five also known as Lot A at Ronald Reagan National Airport, also known as DCA) in compliance (meaning "secure" and "adjacent") with Article 26 of the Collective Bargaining Agreement? If not, what is the remedy?

At issue was the Authority's decision to designate a location known as Lot A at DCA for unit member parking, as a replacement for Lot D.

The arbitrator's award issued in February 2023 (the Kominers Award) sustained the grievance and found that the Lot A parking location at DCA was not in compliance with Article 26 as it was neither adjacent nor secure. In that arbitration, the parties had put in evidence that unit members *reported* at both facilities from time to time despite being *assigned* to only one facility, and the parties apparently put forth arguments regarding the appropriateness of hang tag fees under the circumstances that existed.

There was testimony at that arbitration about the lack of security at the proposed parking location at Lot A, but no evidence the Arbitrator found probative of exactly what might constitute a secure location. Moreover, the Arbitrator determined that the issue of the past, current, or future payment of hang tag fees was not placed before him in the parties' statement of the issue.

Consequently, the arbitrator's remedy relative to the parking areas was solely that the "Authority shall establish a parking area at DCA that is in compliance with Article 26 of the CBA," and no findings were made, and no relief was ordered regarding hang tag fees.

The Record Evidence

According to Union witnesses, they have the same concerns about the current situation at DCA that they had raised in the prior grievances. As confirmed in the site visit undertaken by the undersigned in June 2024, the lot is open, and there are no gates or locked entrances/exits around the parking area. Consequently, members of the public can enter the lot from the sidewalk or drive their vehicles into the lot by turning into the lot from the public roadway that leads to the airport terminal. In addition, the vehicles of all the vendors delivering goods to the many retail and other tenants of Terminal A (also known as the Historical Terminal) of the airport drive into Lot D to reach their delivery area.

Authority witness Major Freddie Crowder acknowledged current safety concerns at Lot D at DCA, including that it is open to the public and adjacent to the terminal as well as to the taxi parking garage, and that the entrance to the police station is also in an "open area." Major Crowder testified that the use of hang tags allows the Authority to identify any vehicles that are parked in Lot D without permission.

MWAA Vice President and Dulles Airport Manager Richard Golinowski testified that vendors delivering items to Terminal A must check in with the unarmed loading dock guard, and that there are security cameras covering Lot D, which feed into the airport's Operations Center and Public Safety Communications Center. He testified that these

are just some of the thousands of cameras in use at the airports, “so you can’t view them all, all the time, but the cameras are there and accessible.” Marked police cars are routinely parked in Lot D, along with the private vehicles of police officers assigned (or reporting) to DCA.

At the March 22, 2022 arbitration hearing on the prior grievance, the Authority conceded that Lot D was not secure at that time (Union Exhibit 3B at 43-44; see testimony of Richard Golinowski at the August 1, 2024 hearing of the instant grievance, at 236).³

Unit members assigned to the K-9 unit are considered to be assigned to Police Headquarters on the Dulles campus, but the K-9 facility itself, where the officers actually report, is located between Dulles Airport and a Marriot hotel, and has its own parking lot. Corporal Keith Shibley, who testified on behalf of the Union, has been assigned to the K-9 unit since January 2020. While on duty, K-9 officers divide their time between the two airports. Corporal Shibley testified that when they report to DCA, they are “mainly in our vehicles all day, but, if we have to park and go inside, it’s either curbside [along the road in front of the airport terminal] or it’s police parking.” By police parking, he meant Lot D.

All K-9 unit officers – there are currently 12 of them -- drive MWAA cars to and from work. These cars are clearly marked as police vehicles, and they have special areas for the dogs.

³ The Authority has adopted a 15-year capital plan for DCA that would include a new police station with secure parking. A completion date of approximately 2030 is contemplated.

Corporal Shibley testified further that at some point while he was still a detective, i.e., prior to January 2020, the eight detectives, all of whose duty assignments were at Headquarters, began to be assigned unmarked MWAA police cars to drive to and from work, and “they did not buy hang tags” for those cars. It also appears that the detectives’ offices are at Dulles but that they report to both airports as part of the job.

There was some evidence that it was the Authority’s intention to charge K-9 officers for hang tags starting in October 2023. However, the only testimony on that point came from Corporal Shibley, who attempted to pay for a hang tag but was not able to do so through the online portal.

It is clear from the record that as of the date of the hearing, the parking area for K-9 unit officers at the K-9 facility was not secure. That is, near the K-9 facility is an area designated as a cell phone area where motorists can wait for passengers arriving at the airport to call them. There are also park benches in that area. A public road (which also connects to the Marriot hotel) leads to signage for the K-9 facility stating “MWAA K-9 Facility” and “Caution – Police K-9 Training Area.” If the driver proceeds further, they encounter signs saying “Restricted Area” but there is no fence or gate system in place preventing anyone from accessing the area where officers park at the K-9 facility.

As of the time of the arbitration hearing, the Authority has undertaken to remedy that situation at the K-9 facility by erecting a perimeter fence, with the work having commenced in early August 2024 and, as of that time, predicted to be completed by October 2024.

Prior to 2019, unit members paid for hang tags for their personal vehicles, a practice that had been in place since at least 1995 if not earlier. As a result of Mediator Kloch's determination of September 30, 2019 (see discussion above), all unit members were given hang tags but were not charged any fee. However, commencing in October of 2023, the Authority began requiring unit members assigned to Dulles to pay the then-current annual fee of \$130 for their hang tags. In contrast, for October 2023 - September 2024, unit members assigned to DCA continued to not be required to pay for their hang tags.

With the exceptions noted above, all MWAA employees working at DCA or Dulles have paid and continue to pay for hang tags for their personal vehicles.

Unit members carry handguns, knives, pepper spray and other equipment while on duty. They generally don this equipment inside the police stations, but Corporal John Ivey testified that officers "may choose to transfer" equipment from their private vehicle to the station. They do not wear that equipment while driving their private vehicles.

Corporal Ivey has served the Authority for 32 years. He has been Treasurer of the Union since 2011. He is assigned to Dulles Airport and has been so assigned throughout his career except for approximately two years at DCA. Corporal Ivey has mainly worked patrol, but also served on the Department's SWAT team at some point earlier in his career.

On occasion, according to Corporal Ivey, unit members whose duty assignment is at Dulles either at the police station or at Dulles Police Headquarters, are required to report to DCA, e.g., when there is a need for additional personnel at DCA such as for a protest event, for training, for overtime taking place at DCA, and for periods of time

where an officer is sent to DCA for “familiarization” with that facility (also known as “officer exchange”). Such officers would have to park in Lot D at DCA on occasions when they reported there. It is undisputed that DCA is the site of most protest-type events because of its proximity to Washington, D.C.

Newly appointed officers work at both airports (for periods of one month at each airport) as part of their training. Permanent assignments are eventually made but officers are thereafter free to request a transfer so that the other airport becomes their duty assignment, and there are times when the Authority transfers an officer in response to shifting needs for personnel at one or the other airport.

Corporal Paul Solo, currently assigned to Dulles, has been a police officer for the Authority for 21 years. As a member of the bike response team (BRT), he can be called to either airport in response to demonstrations and similar events occurring in D.C. or at the airport. There are about 18 BRT officers assigned to Dulles, and about 12 at DCA. As of August 1, 2024, the entire cadre of Dulles BRT officers had responded to DCA twice in 2024, for July 4 and for a protest related to Gaza (both D.C. events), and three times during 2023. They all drive their personal vehicles when responding to DCA , except that Corporal Solo transports the bicycles to DCA in a box truck. The truck and personal vehicles are all parked in the DCA police parking lot (Lot D); if there is no room for the truck, it is parked right outside the lot.

Corporal Solo is also on the crash team that responds to serious vehicle accidents including those taking place at DCA, and in the Civil Defense Unit, which responds to more serious events like a riot regardless of the airport involved.

Retired Corporal Paul Alexander worked for MWA from September 2015 through December 2021, starting as a patrol officer, later serving temporarily as a detective, and finally as fulltime academy instructor. He also served as Union president from 2018 to 2021. His first duty assignment was to Dulles Airport; later, he worked at Headquarters when it was at DCA, in his position as background investigator. Police HQ was moved to Dulles from DCA in or about 2020.

While he was assigned to Dulles, Mr. Alexander would occasionally be directed to work at DCA when extra security was needed there. Also, from time to time, he would report to DCA for training-related activities. As an academy instructor, Mr. Alexander was “off-site” but would have to return to both airports to fill out paperwork, or to assist when there was an event going on. Others in the unit whose duty assignment was Dulles would similarly have to go to DCA to help out for events.

Authority witness Major Freddie Crowder has worked for the Authority for 22 years. His duty assignment is at Dulles. Major Crowder testified that Dulles officers will sometimes report to DCA for overtime duty (although DCA officers have priority for such overtime), or for special events such as a protest, July 4, or Police Week. If a Dulles officer reporting to DCA lives closer to DCA, they will drive their private vehicle and park at DCA; if they live closer to Dulles, they will park their private vehicle at Dulles and travel to DCA in a police vehicle.

Also according to Major Crowder, there are occasions when officers assigned to DCA will report to Dulles for special details such as Police Week and the Dulles Plane Pullout. Deputy Chief Jim Wasem, when asked about the frequency of Dulles officers reporting to DCA, testified that he “would be hard-pressed to tell you that. It’s not

uncommon, I can say that, but I don't think it's every day." K-9 officers, while housed at Dulles, respond to DCA every day.

It is not disputed that hang tags are an efficient way to insure that only authorized individuals park in Police Department lots and other such areas, although the owner of a vehicle without a hang tag can be identified by a 3-6 minute two-part process, i.e., checking license plates and then checking with Airport Operations to see if the owner is in fact an MWAA employee or tenant, or otherwise authorized to park.

The parties noted at the arbitration that the Authority had not yet decided whether it would continue to relieve unit members assigned to DCA from having to pay for hang tags for the 2024-2025 year. It appears from subsequent documentation (Union's Brief, Attachment A) that such practice is being continued with regard to unit members assigned to DCA, and that those assigned to Dulles will be subject to hang tag fees in the amount of \$135 for one vehicle and \$5.00 for an additional vehicle.

POSITIONS OF THE PARTIES

Union's Position

The Union argues that it has established that the Authority is in violation of Article 26 as Lot D at DCA is still not secure, and that the burden has shifted to the Authority to show why any unit members can be required to pay hang tag fees. The Authority is bound by its attorney's stipulation in the arbitration resulting in the Kominers Award that Lot D is not secure. Further, the Union cites Mediator Kloch's direction that payment for hang tag fees should be suspended "until MWAA has shown that it has complied with the language of Article 26."

While conceding that the parking lot at Dulles has been secure since October 1, 2021, and while not disputing that unit members can (and indeed should) be required to obtain and display hang tags, the Union argues that the plain meaning of the unambiguous language of Article 26 supports its position that this provision is violated whenever either airport parking lot is not secure, and no unit member should be required to pay a hang tag fee for their parking credentials. It asserts that its position is further supported by the fact that there is but one police department, one bargaining unit under one union, and one collective bargaining agreement.

The Union also argues that the Authority's failure to perform the fundamental obligation to provide a secure parking lot at DCA constitutes a material breach that precludes the Authority from enforcing the portion of Article 26 that requires payment of a fee for an employee's hang tag. In addition, I am urged to adopt Arbitrator Kominer's reasoning that the Management Rights clause does not obviate the obligations in Article 26.

The Union points to the testimony of its witnesses in this case and in the March 2022 hearing that resulted in the Kominers Award about circumstances where officers assigned to Dulles or Headquarters will report to DCA for various purposes, and where officers from one of the airports would report to the other airport to maintain the minimum staffing, e.g., where officers are away from the airports handling an emergency mental health commitment arising from an arrest.

The Union requests that if it prevails on the merits, relief should be ordered in the nature of reimbursement of hang tag fees paid by any unit members in 2023 and 2024, suspension of hang tag fees for all unit members unless and until the Authority provides

a parking lot at DCA that complies with Article 26, posting of a remedial notice, and holding the Authority responsible for the Union's attorney's fees, expenses and costs, and for the Arbitrator's fees and expenses.

Employer's Position

The Authority argues as a threshold matter that the issue presented by the grievance involves a management right, namely the employee benefit of free parking. The Authority cites Section 2.9 of the Labor Code in support of this contention, along with MWA Regulations Part 4 (Sections 4.31 and 46.2) (authorizing the Airport Manager to determine restrictions on parking, including "time, place and manner" and the rates to be charged).

The Authority argues further that the Preamble to the CBA reflects the intent and purpose of the parties to "promot[e] a level of employee performance consistent with safety, good health and sustained effort," which supports the Authority's argument that the safety aspects of the hang tag requirement take precedence. In addition, this dispute falls under the Management Rights clause (Article 6, §1) which provides that nothing in the CBA shall affect the authority of any Management official "to determine the mission, budget, organization, number of employees, and internal security practices of the Airports Authority." Moreover, the Authority argues that this grievance is not proper because Article 1(4) states that a grievance shall not include a complaint pertaining to wages and benefits and the calculations thereof, and parking is a benefit.

The Authority also asserts that the Union did not prove that Lot D at DCA is not secure within the meaning of Article 26 and points out that the entire lot is monitored by cameras at all times, abuts the police station, and is frequented by sworn armed officers

(i.e., Authority police officers). The Authority points to the provision in the November 2018 Settlement Agreement that nothing therein shall be construed as an admission by either party that the parking locations were secure or not secure. In addition, the Authority argues that it implemented the security measures set forth in that Settlement Agreement. The Authority also asserts that the Union's idea of a secure lot, i.e., one with a fence around it, cannot presently be realized at DCA.

Also, according to the Authority, nothing in Article 26 relieves employees of their obligation to pay for the appropriate hang tag.

DISCUSSION AND DECISION

I find that the Union met its burden of proving a violation of Article 26 by a preponderance of the evidence. The Authority's threshold argument that the grievance is precluded by management rights set forth in the CBA and in Section 2.9 of the Labor Code is not persuasive.

The cited Labor Code provision states that the Authority shall not be obligated to negotiate about airport matters which must be uniform for all employees, unless the labor organization represents more than 50% of all employees subject to such uniform rules. Even assuming for the sake of argument that the Authority was not "*obligated*" to negotiate with the Union over the payment of hang tag fees, the fact is that the Authority did so in Article 26. The Authority has pointed to no regulation *prohibiting* it from engaging in such bargaining.

I also find that the bargain struck in Article 26 does not involve "a matter which must necessarily be uniform" for all employees. The plain language in Article 26 is most

reasonably interpreted to mean, as suggested in Mediator Kloch's 2019 determination,⁴ that providing secure parking is a condition precedent before the Authority can require unit members to pay hang tag fees. The record contains no evidence that it is "necessary" for every employee of the Authority to have the same arrangement with management governing whether she or he can be charged for hang tags.

Moreover, I find that none of the provisions of the CBA cited by the Authority support its position. Article 1 reflects the parties' intent to promote employee performance "consistent with safety." Article 6, §1 provides that "nothing in this agreement shall affect the authority of any Management official [] to determine the mission, budget, organization, number of employees, and internal security practices of the Airports Authority."

I find that Article 1 does not clearly constitute a limitation on bargaining in general, and in any event there is nothing about the issue of whether employees have to pay for hang tags that implicates safety. The Union agrees with the need for hang tags, and Article 26 in no way interferes with the Authority's right to require hang tags. It merely conditions management's right to collect a fee upon the provision of a secure parking location.

For the same reason, Article 26 cannot be read to interfere with management's right to set internal security practices such as requiring hang tags. Article 26 does not prevent the Authority from adopting such a requirement. Moreover, the reach of Section 1 of Article 6 is expressly "subject to Section 2." Section 2 says the parties are free to

⁴ Union Exhibit 2, at 3.

negotiate “appropriate arrangements for employees adversely affected by the exercise of any authority” under Article 6, as well as “procedures which Management officials . . . will observe in exercising any authority” under Article 6. I credit the Union’s argument that Article 26 is the fruit of classic impact bargaining authorized under Section 2 of Article 6 and is not an improper usurpation of any identifiable management right.

Similarly unpersuasive is the Authority’s reliance on exclusions from the definition of a grievance in Article 31 of the CBA for complaints “pertaining to wages and benefits and the calculation thereof.” In the absence of any authorities supporting this argument – the employer has cited none - I decline to find that this clause was intended to preclude a grievance over management’s decision to charge employees for parking. That decision involves what are commonly and reasonably considered terms and conditions of employment, which are expressly encompassed within the definition of a grievance in Article 31.

Turning to the merits, it is not disputed that the parking area used by those unit members assigned to Dulles Airport and to Police Headquarters at Dulles Airport is secure and compliant with Article 26. However, I find that the unit members’ parking area at DCA (Lot D), and the parking area at the K-9 facility near Dulles Airport are non-compliant with Article 26 in that they are not secure.

The Authority’s interpretation of Article 26 as not relieving employees of their obligation to pay for a hang tag is not persuasive. I have already found that the plain meaning of Article 26 is that payment of a fee is conditional upon employees being provided a secure parking area.

That the parking area in Lot D is not secure was amply proven at the hearing. The Authority's representative conceded on the record on March 20, 2022 during the prior arbitration that Lot D was not secure. The witnesses called by the Union in the instant case described convincingly and without contradiction how Lot D currently can be accessed at will by any member of the public on foot, and by any vehicle via an uncontrolled driveway. The fact that the lot is frequented by armed police officers does not support the Authority's argument that the lot is secure: While it might be a deterrent to some potential bad actors, it could encourage others to target a clearly identifiable law enforcement officer.

The fact that activity in the lot is captured by the Authority's cameras is a good thing, but the Authority's witnesses had to concede that the video feed from the thousands of cameras at work throughout the Authority's area of operations is not being viewed at all times. I find from the record that the presence of cameras does not remedy the clearly insecure nature of Lot D.

It is also good news that current plans call for rectification of the parking problems at DCA by 2030. In the meantime, Lot D remains out of compliance with Article 26. The challenges facing the Authority in fixing the problem at DCA are significant, but they do not relieve it of its obligations under Article 26.

I find further that the parking area at the K-9 facility near Dulles Airport was not secure for purposes of unit members' obligation to pay for hang tags. As detailed above, members of the public are not prevented from accessing that parking area on foot or by vehicle except by signage warning them away. Elimination of the issues at the K-9 facility was projected to be completed by October 2024 (after the close of the

record in this case) by erection of fencing and gates. The Union's request for prospective relief reflects this by referencing DCA but not the K-9 parking area in its request that no fees be paid until the lot at DCA is compliant with Article 26.

Moreover, I credit the Union's argument that the Authority's violation of Article 26 with regard to DCA precludes the Authority from requiring hang tag fees from any member of the unit, even those whose duty assignment is to Dulles Airport or Police Headquarters, or, for that matter, to the K-9 facility after it is made secure. While the parking lot at Dulles is secure and has been since October 2021, and while the K-9 facility may well be secure going forward, Article 26 makes payment of a fee contingent upon satisfaction by the Authority of the obligation to provide bargaining unit employees with "a secure parking location adjacent *to each station at either Airport*" (emphasis added). Language in a contract should be presumed to have meaning, and it should be given its common sense meaning. The common sense meaning of the language in Article 26 is that no unit member can be compelled to pay a fee for their hang tag so long as any parking location for unit members is insecure.

The reasonableness of this interpretation is evident. First, if the parties' intent were to limit an employee's entitlement to a secure parking location to the site of their duty assignment and only to that site, presumably language signaling that limitation would have been used. Instead, the inclusion of both DCA and Dulles is emphasized by Article 26's reference to each station at either airport.

Second, while I find the contract language to be clear and unambiguous, even if it were assumed for the sake of argument that there is an ambiguity, the actual practice and custom in this workplace would support the Union's interpretation. The record

shows that it is a routine occurrence for officers assigned to Dulles to be ordered to report to DCA for special events such as demonstrations or the 4th of July, and to park at DCA's Lot D. Some officers assigned at Dulles routinely report to DCA as part of their jobs, e.g., the bicycle unit and crash unit. Apparently less frequently, officers assigned to DCA will report to Dulles and park in the police lot there, for Police Week and other activities. If the terms of Article 26 were ambiguous, these facts would support the conclusion that a unit member's obligation to pay for parking is conditional upon the Authority providing a secure parking location at each facility, not just at the facility where the unit member's duty assignment is.

The Authority therefore violated Article 26 of the CBA by charging any unit members for hang tags in 2023 or 2024 while there was no secure parking area at DCA. The grievance is accordingly sustained.

The Appropriate Remedy

Under the circumstances described above, the appropriate remedy is to relieve unit members of any obligation to pay hang tag fees until such time as the Authority provides a parking lot at DCA that complies with Article 26. Any unit members who paid hang tag fees in 2023 or 2024, including any who subsequently left the bargaining unit, must be made whole by reimbursing them for those fees within thirty (30) days after the date of this Decision and Award. I decline to order that a remedial notice be posted in the absence of evidence that such a measure is necessary to remedy the contract violation.

I am ordering the Authority to pay for the Union's expenses and costs incurred in this grievance, as well as the entire Arbitrator's fees and expenses, but I decline to order

the Authority to pay the Union's attorney's fees. The CBA provides (Article 32, Section 4) that the parties share the arbitrator's fees and expenses equally, as well as the cost of the arbitrator's transcript and the total transcript charge where both parties request one. Modifying this understanding in the context of the dispute between the parties regarding the security of parking areas at the airports, the parties agreed in the November 30, 2018 Settlement Agreement as follows:

Fees and Costs. Except as described further in this Agreement, the Parties shall bear their own costs, expenses and attorneys' fees incurred in connection with the Grievance and this Agreement. In any future grievance or arbitration relating to the Grievance and/or this Agreement in which the Union is the substantially prevailing party, the Employer shall pay the Union's expenses and costs, including the costs for the arbitrator, court reporter and transcripts.

In the first sentence in the Settlement Agreement, the parties referred to bearing their own attorney's fees unless otherwise agreed, and in the second sentence, they omitted attorney's fees from what the Authority must pay if the Union prevails in any future arbitration relating to the issue. I find that the parties' intent was to exclude attorney's fees from the Authority's exposure in the instant matter.

I find that the Union has substantially prevailed here, in that I have sustained the grievance and have found that the Authority violated the CBA when it imposed hang tag fees on unit members. Pursuant to the Attorney's Affidavit submitted by the Union here, I find that the Union's incurred costs and expenses consist of \$3,334.68 for transcription services, and its half of the fees and costs of the Arbitrator.

Therefore, based on the facts and circumstances of this case and the preponderance of the evidence, and for the reasons explained, the Arbitrator issues the following:

